

The complaint

Mr P complains that Barclays Bank UK PLC did not set up direct debits to make payments to the buy-to-let mortgages he holds. As a result two mortgages fell into arrears.

What happened

Mr P has three buy-to-let mortgages with Barclays. He said that in around 2007 he found out that his payments were being collected by standing order and not direct debits. He said that he arranged with Barclays for direct debits to be reinstated on all of the mortgages.

In July 2023, Mr P said he received a letter from Barclays saying that two of the mortgages were in arrears. When he complained to Barclays, he said he found out that only one mortgage was being paid by direct debit and the others were being paid by standing order. Therefore, when the payments due went up because of increases in interest rate, the payments did not change and the mortgages fell into arrears. Mr P said he only found out about that when he belatedly received the letters from Barclays about the arrears. He also said when he instructed Barclays to set up direct debits it only did so on one account.

Mr P complains that Barclays did not set up direct debits as it should have and that led to his mortgages falling into arrears. He said he did not receive notifications that the interest rates had changed. He wants Barclays to clear his credit file.

Barclays responded to say that it wrote to Mr P about both the increase in interest rates and the arrears – and that if Mr P didn't receive them then that was due to the Royal Mail.

I issued a provisional decision setting out which parts of the complaint we could consider and proposing to uphold the complaint we could consider in part. My provisional findings, which form part of this decision, were:

Direct debit cancellation

We have evidence that the direct debits were cancelled in 2010 on two of Mr P's mortgages but not the third. Mr P complained in 2023, so the event being complained about is more than six years ago. I need to decide if Mr P ought reasonably to have become aware he had cause for complaint more than three years before he made the complaint.

In 2015 Mr P asked Barclays for a full breakdown of his mortgage. He also would have received annual statements for all three mortgages. If Mr P did not receive statements, then I would have expected him to query that. And presumably his bank statements would have shown the payments being made by standing order.

I consider Mr P ought reasonably to have become aware he had cause for complaint that Barclays had cancelled the direct debits on two mortgages on or soon after 2010. So that complaint has been brought outside our time limits.

I've also considered that by cancelling the direct debits Barclays created an unfair relationship. Complaints about unfair relationships between debtors and creditors are a

matter the courts have the power to deal with under s140A of the Consumer Credit Act 1974. It's for the courts to deal with claims under s140A of the Consumer Credit Act, but it's also relevant law for me to take into account – although s140A hasn't been explicitly mentioned by Mr P, it's a matter for me to decide what is relevant law to take into account and I think s140A is relevant to this case because he has complained, in effect, that the relationship between him and Barclays became unfair because of the error in question.

In the recent case of Smith v RBS, the Supreme Court said that deciding whether a relationship is unfair requires consideration of all potentially relevant matters that might have given rise to unfairness, whenever they took place, and that consideration should take place as at the date of the decision or, if earlier, the date of the end of the relationship.

In this case, the relationship between Mr P and Barclays is continuing, and therefore if there is any unfairness Barclays has an ongoing obligation to put it right. In order to decide whether or not the relationship is unfair, I will need to consider all matters relevant to that, whenever they occurred. Even though some of those matters may have happened more than six years ago, that does not mean I cannot take them into account for the purposes of considering whether the ongoing relationship is unfair. I'm therefore satisfied that this part of the complaint is not out of time under our rules.

I've already found that Mr P ought to have known the direct debits were cancelled in around 2010. It follows that he ought reasonably to have taken steps to address that sooner than he did. Therefore, while Barclays is likely responsible for the direct debits being cancelled – Mr P should have taken steps to reinstate the direct debits sooner than he did to mitigate his loss.

Letters

Mr P has also complained that he did not receive any letters from Barclays regarding the rate changes or arrears until July 2023.

I've given this part of the complaint a great deal of careful thought before reaching this decision – and I thank both sides for their patience while I did that. I consider this is a fair outcome. It largely comes down to whether I believe Mr P or Barclays. In this case, Mr P has provided a clear and consistent account of what happened. He is at a disadvantage to Barclays as it is more difficult for him to prove that something didn't happen. Barclays should have evidence that supports the disputed letters were sent. But for the reasons I have set out, I don't consider it has shown on balance that it is more likely than not that it sent the letters – and I am satisfied I have given it a fair opportunity to put forward its case bearing in mind that it is a regulated business with significant resources and experience in dealing with complaints.

I've asked Barclays for evidence to support that it wrote to Mr P when the interest rates changed and when the mortgage fell into arrears. In my experience, usually it is relatively straightforward for a mortgage lender to provide evidence that demonstrates it is more likely than not that it sent letters to a borrower. But in this case, it has proved difficult for Barclays to provide a suitably comprehensive and coherent explanation of its process supported by evidence.

I have made several requests to Barclays for clarification. I set out that it was required under the relevant rules to co-operate with us, provide the evidence that we request and to present it in a certain way. I explained that if it provided evidence that was incomplete, contradicts other evidence or did not support its position then I was likely to uphold this complaint. Under our rules I can reach a decision based on what has been supplied and take into account the failure by a party to provide information requested.

I am aware there are known problems with the system Barclays used in this case. It does not necessarily follow that it caused any problems or did not operate as expected in this case. But it would be reasonable for Barclays to acknowledge there are problems with this system. And it is possible there are issues with it that it has not yet identified. There is no evidence that there has been any investigation into the issues that arise in this case in respect of whether the system Barclays operates for sending correspondence through the relevant system works as Barclays expects.

I also asked Barclays how many other complaints it received about this issue. That is relevant because if it received many similar complaints it might indicate a systemic problem. Barclays said it had “no rise in complaints regarding non receipt of rate change or arrears letters within the stated period”. That did not answer my question. And the response is unhelpful – for example, it could mean it receives no or few complaints or it could mean it receives many complaints already. But I don’t see how it could have answered at all without knowing how many complaints it actually received – so it either provided a misleading response because it did not know how many complaints it received, or it did check and did not answer the question.

Barclays has provided screenshots from its systems, which it considers supports the disputed letters were sent. Some of the evidence initially provided by Barclays did not show that it was actually linked to Mr P’s accounts. For example, the evidence did not show account numbers on the screenshots. So that did not support Barclays’ position.

I asked Barclays for information and clarification a number of times. I was trying to understand what its process was for sending letters and why it considered the evidence it provided supported the letters it claims were sent to Mr P were sent and were sent to the correct address.

Barclays initially told me “mortgage letters generated are automatically.” This would suggest that when a letter is generated on its system then it is sent automatically without any human intervention. That would not be unusual. But Barclays then said it “operated mostly as a manual system, the format generated letters are stored on the system and this proves they were created and should have been sent out...The evidence we hold of the letters been sent are the screen excerpts evidencing these letters were issued as this is a manual process, we agree there could be human error however, this could happen possibly once or twice, but for it to happen every single time there was a base rate change.”

It is not clear from the evidence provided which (if any) letters are generated automatically. Barclays said that the fact the letters are stored on the system proves they were sent. But it has not told me why the evidence it has provided proves that. All it appears to show is that the letters were sent to a printer. But it is not clear what happened then. There does not appear to be any audit trail that shows that the letters were actually printed and/or that any manual intervention had been completed correctly in line with its explanation.

The explanation it has given is that it operates a manual process across a number of different departments. There seems to be a number of points where things could go wrong.

Barclays has said there is no evidence of any letters being returned undelivered. But it has not explained how that would have been recorded or provided sufficiently detailed evidence about the process that would be followed in that case or indeed any assurance that it would have been followed.

Despite several requests, I am still unsure about the process Barclays follows where letters are sent for a number of reasons, including: are they all sent manually or just some? Is there any audit trail to show that a letter has been sent either manually or automatically? Or to

show which letters were intercepted to be sent manually? What happens if a letter is not intercepted? How can Barclays be sure that its system shows a letter has been printed? And why would that mean it has been sent? What is the step-by-step process when a letter is manually or automatically sent?

Those should be straightforward questions for a regulated mortgage lender to answer and I am satisfied I have given Barclays a fair opportunity to provide that information if it wished – as it has not done so I have taken that into account.

Mr P has been clear and consistent throughout that the first letter he received from Barclays was in July 2023 regarding the arrears. That is evidence I have taken into account in reaching this decision. Of course, that does not mean that Barclays did not send the other letters – they might not have been delivered through no fault of Barclays or Mr P might not have opened them or realised their significance.

The evidence we have supports that Mr P took action as soon as he received the July 2023 letter. It does not support that Mr P was ignoring contact from the lender. Bearing in mind that Barclays said it sent at least five letters in 2023 regarding the rate change alone, it seems unlikely that the post was the issue – almost all mail is correctly delivered so it seems less likely that if all of the letters had been sent that none of them would have reached Mr P.

And this is not a case where Mr P could not afford to pay or where there is any evidence that he was deliberately paying less than he needed to. It seems more likely that if he had received the letters he would have acted on them and either attempted to set up a new direct debit or adjusted the amount of the standing order.

After very careful consideration and in the individual circumstances of this complaint I am not sufficiently persuaded on balance that Barclays has shown that it did enough to notify Mr P of either the change in payments or that the mortgages were in arrears. I consider if it had, then Mr P would have taken steps to pay the correct amount. Therefore, if Mr P has already cleared the arrears or does so within 30 days of accepting my decision, Barclays should remove any adverse information from his credit file relating to the mortgages with account numbers ending 694 and 706 from 6 June 2022 to date.

In saying that, I accept that Barclays is obliged to record true and accurate information about how Mr P conducted his mortgages. I can see the argument that the adverse information recorded by Barclays is a true reflection of how Mr P managed the mortgage – even if he did not receive the letters from Barclays. That is because this was a buy-to-let mortgage and I've already found that he ought reasonably to have known that a direct debit was not in place.

Even after taking that into account, I still consider it would be fair for Barclays to remove the adverse information in this case providing the accounts have been brought up to date. I say that because Barclays sends the letters regarding the rate changes and arrears so that its borrowers have clear, fair and not misleading information about how much they need to pay. Mr P was at a disadvantage because he did not receive that information – and I have found it more likely than not that he would have paid had he received those letters.

I am not awarding any compensation for the distress and inconvenience caused to Mr P because of what happened. That is because I've already found that Mr P ought reasonably to have been aware that his mortgage did not have a direct debit in place. This was also a buy-to-let mortgage. Mr P knew that he was not on a fixed rate. So he ought reasonably to have expected his payments to change when rates went up in 2022. But I can see there was some potential confusion because Mr P was paying more than he needed to for some years because he was paying by standing order. And I understand the deeply held concerns that Mr P has about the level of service provided by Barclays over a number of years, which

made him reluctant to take action. Because of that – along with the lack of reasonable notification of changes to the amount due – I think it would be fair in the individual circumstances of this complaint to amend his credit file as long as the mortgage is brought up to date.

If Mr P accepts my decision and the mortgage is still in arrears, Barclays should write to him by recorded mail within 14 days of receiving notification of Mr P's acceptance how much he needs to pay to bring the mortgages up to date. If Mr P pays that amount within 30 days of that notification being sent, then Barclays should remove any adverse information from his credit file in respect of the mortgages with account numbers ending 694 and 706 from 6 June 2022 to date of settlement.

Barclays should clarify the current position in respect of the arrears in response to this provisional decision. I would add that if there have been any further missed or underpayments then it is unlikely that it would be fair to tell Barclays to amend Mr P's credit file in the way I have proposed.

Direct debit set-up

Barclays has accepted that it failed to set up a direct debit in one account despite receiving a mandate from Mr P. It offered £200 and I think that was fair. I am satisfied that Barclays has now set up the direct debit.

But there appears to be another issue. I pointed out to Barclays that for account ending 694 the payment was collected by direct debit in October and December 2024 – but it was not collected in November 2024. We know Mr P could afford to make the payment because he maintained his standing order payments alongside the direct debits because he did not trust Barclays that the direct debits had been set up correctly. Barclays responded to say that the payment was being collected by direct debit. This would suggest that it has not properly considered the evidence or understood how the mortgage was operating. While there is a direct debit in place it did not collect the payment due in November 2024 as it should have.

This is a new issue that did not form part of the original complaint. It would be helpful if Barclays could respond appropriately, try and understand the root cause of this issue and make an offer to resolve this complaint here. But I can't compel it to do so as part of this complaint.

Barclays did not respond. Mr P responded to say that he was "happy enough" to accept the decision but he wanted to "reserve the right" to look into a financial claim against Barclays.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither side has put forward any new evidence or arguments, I see no reason to reach a different outcome than what I proposed in my provisional decision.

I note that if Mr P accepts my decision it will be in full and final settlement of any complaint about the bank failing to set up direct debits and/or telling him when his payments changed. While I accept that Barclays did not do enough to tell Mr P when interest rates changed and his payments went up, there was still some responsibility for him to manage the mortgage and make sure he was paying enough.

In saying that, I have found on balance that Barclays did not do enough to notify Mr P of

either the change in payments or that the mortgages were in arrears. I consider if it had, then Mr P would have taken steps to pay the correct amount. In view of that, in the individual circumstances of this complaint and as there was scope for some avoidable confusion, I consider that Barclays should remove any adverse information it has recorded on Mr P's credit file provided the accounts have been brought up to date as set out below.

Barclays has not responded to my point about the apparent problems that Mr P has experienced once the direct debit was set up. As I explained, that is really a new matter, so Mr P would need to complain to Barclays about that in the first instance if he has not already done so.

My final decision

My final decision is that Barclays Bank UK PLC should:

- If account numbers ending 694 and 706 are in arrears, write to Mr P by first class recorded delivery within 14 days of receiving notification that Mr P has accepted my decision. The letter should set out how much Mr P needs to pay to clear the arrears and how he should make a payment.
- If there are no arrears or Mr P clears the arrears in full within 30 days of the above letter being sent then Barclays should remove any adverse information from Mr P's credit file relating to the mortgages with account numbers ending 694 and 706 from 6 June 2022 to the date the payment is received.
- If it has not already done so, pay Mr P £200 for the distress and inconvenience caused by failing to set up the direct debits.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 18 March 2025.

Ken Rose
Ombudsman