

complaint

Mrs J and Mr J complain that Barclays Bank UK PLC hasn't treated them fairly when they experienced financial difficulty with their mortgage. Although Mr J has joined the complaint, it has been conducted by Mrs J. She says Barclays hasn't been sympathetic. It hasn't agreed concessions to help them. It hasn't taken account of her vulnerability. And it's made it difficult for their son and daughter to act on her behalf.

background

Mrs J and Mr J took out their mortgage with Barclays many years ago. The main mortgage balance was, at the end of 2019, less than £30,000, though they also owed over £250,000 on the associated mortgage current account (MCA).

Mrs J and Mr J divorced some years ago. They reached agreement about their finances, and the agreement was set out in a court order. The order said that the property would be placed on the market. Mrs J would live in the property until it was sold but Mr J would pay the mortgage. When the property was sold, the mortgage would be paid off, as would the mortgage on a second buy to let property which was to be transferred to Mrs J.

Unfortunately, despite being on the market for several years – and being reduced in price several times – the property hasn't sold. Mrs J and Mr J were able to pay a lump sum of around £20,000 in 2018 following the sale of the buy to let property. But other than that, there have been no payments to the mortgage since 2017.

In 2016, Mr J applied for an interest only concession. Barclays refused, because it said it needed Mrs J's agreement as well.

More recently, Mrs J has applied for interest only and other concessions – again, Barclays has refused because it has only had the consent, or financial details of, one of the borrowers.

Mrs J complains that Barclays hasn't acted sympathetically or tried to help her. She has told Barclays that she has a range of physical and mental health conditions that make it difficult for her to manage her finances and she wants her children to deal with Barclays on her behalf – but she says Barclays has refused to allow them to represent her. She says she has found conversations with Barclays staff unhelpful and upsetting.

Mrs J also complained that Barclays had allowed Mr J to withdraw substantial funds from the MCA in the past, and she didn't think she should be responsible for that. Another ombudsman said we wouldn't consider that part of the complaint.

In respect of the rest of the complaint, our investigator didn't think Barclays had acted unreasonably. So Mrs J asked for an ombudsman to review it.

my findings

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

I agree with the other ombudsman that it wouldn't be appropriate for us to consider the complaint about the balance on the MCA. That's as much a dispute between Mrs J and Mr J

as it is a dispute between them and Barclays. And I can see that the court order post-dated the borrowing, and said how both the main mortgage and the MCA should be dealt with following their separation. So the question of how the MCA borrowing should be dealt with as between Mr J and Mrs J has already been dealt with by the court – and it wouldn't be right for us to re-open the court's decision. So I'll say no more about this aspect of the complaint.

Turning to the rest of the complaint, this is about how Barclays have treated Mrs J and Mr J in their financial difficulty. Since their separation and divorce, it's clear that both of them have been experiencing difficult circumstances, which have significantly impacted their finances. I'm sorry to hear of the difficulties both Mrs J and Mr J have been experiencing. I'm sure the last few years have been very difficult for them both.

Their finances have been such that neither has been able to make any payments to the mortgage – other than a single lump sum – since 2017. The property has been on the market since at least 2016.

Although the court order said that Mr J should pay the mortgage, he's not been able to. Despite the court order, the mortgage remains in joint names – meaning both Mrs J and Mr J are liable to pay it. So Barclays has been in touch with both of them, separately.

It seems the core of the problem here is difficulties in selling the property. It's been on the market for several years without success – and it does seem Mrs J has explored options such as reducing the price. Unfortunately, until it's sold, the mortgage payments do need to be made – but neither Mrs J nor Mr J have been able to do so.

That means Barclays needed to contact both Mrs J and Mr J to try and find out their situation and see whether anything could be done to get the mortgage back on track.

Mrs J has complained about how Barclays handled the situation. She says that she wanted it to agree to accept interest only payments – but it wouldn't do so without knowing about both their finances, and without both their agreement.

In some circumstances, an interest only concession might be helpful. It's most suited to situations where there is a temporary difficulty, but the borrowers can still afford to make part of their payments (paying the interest but not the capital). In this case, Mrs J and Mr J needed a temporary concession while the property was being sold – it couldn't have been known in advance how long that would take. But it's not clear that they would have been able to afford even just the interest. No payments have been made at all for over two years – so even if Barclays had agreed to accept just the interest, it doesn't seem likely to me that Mrs J and Mr J would have been able to pay that. I don't think I can say, therefore, that it was unfair of Barclays to refuse an interest only concession – since I don't think it would have made any difference.

When payment wasn't made for some time, either to the main mortgage or the MCA, Barclays instructed its solicitors to begin repossession action. There were several hearings – including one where its solicitors didn't progress things in enough time. Barclays has rightly agreed that the costs of that hearing should not be added to Mrs J and Mr J's mortgage. But that apart, I don't think it was unreasonable for Barclays to move to legal action. The mortgage was in significant arrears with no payments having been made for some time, and no prospect of Mrs J and Mr J being able to resume payments. While the property was on the market, there was no immediate prospect either of it being sold.

I do think Barclays could have done more to assist Mrs J in the way it dealt with her. She's clearly vulnerable, and although she was initially unwilling to share details of that with Barclays – which makes it harder for Barclays to know how to help – she later did so. Barclays has passed Mrs J to its specialist team, but it could have done so sooner.

And Barclays could have done more to make it easier for Mrs J's children to represent her and deal with it on her behalf. There were difficulties in getting authority in the right form – not least because Barclays gave Mrs J incorrect information about what would be needed.

However, I've seen that Barclays has apologised to Mrs J for these failings, and has paid her compensation totalling £650. While this was a very difficult time, and Barclays' failings were upsetting for her, I think this is a fair way to put things right. I therefore don't ask Barclays to do any more in this respect.

Moving forward, Mrs J and Mr J – or their children on their behalf – will need to keep in touch with Barclays about the progress of the property sale, as well as discussing whether any payments can be made. Current guidance from the regulator is that, because of the coronavirus pandemic, lenders shouldn't take repossession action until February 2021 at the earliest. This does give Mrs J and Mr J some breathing space. But ultimately, unless they can either sell the property or resume making at least some mortgage payments, it's difficult to see what more Barclays can do.

my final decision

For the reasons I've given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 11 December 2020.

Simon Pugh
ombudsman