

## **Complaint**

Mr C complains that Barclays Bank UK PLC pressured him into selling assets and then his home at less than market value. He also complains that Barclays unfairly withdrew an offer to extend the term of his mortgage.

## **Background**

Mr C took an 8 year, interest only, residential mortgage with Barclays in 2008. The mortgage amount was £243,000 and the property was valued at £435,000.

Mr C says he approached Barclays to extend the term of the mortgage in 2014, but was told it was too early to do so and he should apply again in a year. He applied again in 2015 and was told the mortgage was unaffordable. He says Barclays pressurised him to sell assets – an ATM machine, his business and his 50% share in his son's home – so that the proposed extension to his mortgage term would be affordable.

To bring down the outstanding amount on his mortgage, Mr C did sell his ATM machine and, later, his business. He says both these assets were sold at less than he's received offers for previously as he was in a hurry to sell due to pressure from Barclays. But he was unable to realise the 50% share in his son's flat because that was where his son had lived for a considerable time. And his son was unable to raise the finance to buy Mr C's share. According to Barclays' contact notes, Mr C also sought advice from an IFA with a view to remortgaging with another lender, but that was found not to be an option.

An application to extend the term of Mr C's mortgage was declined in June 2017. He says Barclays had told him it would consider the term extension affordable, if he reduced his outstanding balance to £180,000. By the time of this application his outstanding balance was less than £150,000. But Barclays contact notes also confirm the application was declined because the property was being used for bed and breakfast (B&B). Mr C has explained that he listed the house for B&B to make it more marketable. And he was already letting one room under a government scheme, earning £7,000 per annum.

Mr C appealed Barclays decision unsuccessfully and told Barclays he would reduce the outstanding balance by a further £20,000. He did so in November 2017 and told Barclays he'd stopped using the property as a B&B. At Mr C's request, Barclays considered the term extension application again. While his application was considered affordable, Barclays declined it because the property was still licenced as a B&B. Barclays' contact notes indicate that Mr C wasn't prepared to cancel the licence until he'd received confirmation from it that his application had been accepted.

In April 2018 Mr C told Barclays he'd sold the property for £290,000. Mr C says he did this due to pressure from Barclays and that it was sold at less than market value. He says he didn't want to sell the property because he is disabled and it had been adapted specifically for his use - and Barclays was aware of this. He also said that, at no time did Barclays tell him the licence had to be removed for his application to extend the term to be accepted. He says, as someone with 40 years experience as a surveyor, he sees no reason why the B&B licence would negatively affect the value of the property. He says Barclays actions resulted in him being made homeless, relying on friends and family for places to stay. He'd never been late on his mortgage payments and managed to reduce his mortgage debt by approximately £125,000.

Barclays says it had no involvement in the sale of the property or the sale price. It explored several options according to Mr C's proposals and his decision to use the property as a business as well as his home was in violation of the residential mortgage terms and conditions. It started no legal action nor did it begin repossession action.

Our investigator thought Barclays' decision not to approve the term extension was fair because a residential mortgage wasn't suitable for the way Mr C was using the property. She didn't think it was unreasonable for Barclays to explain that it would consider Mr C's application again, should he reduce the balance of the mortgage. Despite the mortgage term expiring nearly two years prior to Mr C selling his property, Barclays didn't begin legal action. Instead it put numerous stops on action and explored the options Mr C proposed. She didn't think Barclays caused any unnecessary pressure for a quick sale.

Mr C didn't agree. He says he closed down his B&B business and he was not aware of any requirement by Barclays for de-registration of the B&B business. He says he could have easily reinstated the registration if he had removed it before the survey. Mr C also says that his recollection of a conversation - referred to in the investigator's opinion - about him refusing to deregister the B&B until his application was accepted is different to Barclays note of it. He says that note indicates only that he understood the B&B had to be closed. He's received nothing in writing from Barclays confirming that the deregistration issue was central to its decision not to extend the term.

Mr C is also concerned that Barclays hasn't responded to a request to disclose all information held about him, particularly letters and phone recordings relating to its reason for declining the term extension application. Barclays has only been able to provide as evidence one phone recording which happens to support its case.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with our investigator. I'll explain why.

To reach my decision, I've thought about whether Barclays applied undue pressure to Mr C in respect of selling his assets and then selling his property to repay the mortgage. I've also thought about whether Barclays acted unfairly in declining Mr C's application to extend the mortgage term.

### Pressure applied by Barclays

Mr C's mortgage with Barclays was due to end in June 2016. So, I would expect Barclays to have wanted Mr C to repay any outstanding balance by this time. And I think that it's reasonable that they should ask him to do so. Inevitably, those requests would include an explanation of the action Barclays could take to recover the outstanding balance if Mr C failed to make full repayment. I can understand why Mr C may feel pressured by such requests, but I've not seen any correspondence from Barclays that I would consider to be threatening or significantly different from what I'd expect under the circumstances.

Mr C wanted Barclays to extend the mortgage term. But his proposal was deemed by Barclays to be unaffordable, applying its lending criteria. Barclays was aware that Mr C had other assets that could be used to reduce the mortgage. Mr C says Barclays put pressure on

him to sell these assets, resulting in him selling some at below market value. He's said he wants Barclays to compensate him for those losses.

While I'm in no doubt that it was in Barclays interest that Mr C sells his assets so that some of his mortgage balance could be repaid, I think it was also to Mr C's advantage. I say this because Mr C wanted Barclays to extend the term and – at that time – it was the affordability of his proposal that prevented that from happening. Reducing his mortgage balance would go some way to addressing the issue of affordability. Mr C has told this service that he knew what the correct market value was for both the ATM machine and his business. I think he knowingly accepted lower offers to make his term extension proposal more affordable. It's not possible for me to conclude that it's likely he would have received better offers or how long he would have had to wait for offers that met his valuation of those assets. I haven't seen that Barclays had any say in the price at which Mr C agreed to sell those assets. So, I don't think it can be held accountable for the losses Mr C claims.

Mr C also says Barclays pressurised him to sell the unencumbered property in which his son lived as he had a 50 percent share. He says he didn't do this because it was his son's home. Mr C has said neither he nor his son could have raised finance on that property, but given no explanation as to why. Given that I think it's reasonable for Barclays to have expected repayment at the end of the term of Mr C's mortgage, I also think it's reasonable it explored the possibility of Mr C raising money against this unencumbered asset. I haven't seen that it did so unreasonably and, in any event, the pressure wasn't sufficient to make Mr C act in this regard.

I would acknowledge that Mr C did try to extend the mortgage well before the end of the term and that it was Barclays that said it wouldn't consider an application that early. But it did consider Mr C's proposal to extend the mortgage approximately a year before it was due to end. And it allowed him nearly two years after the term expired without starting any repossession action. Mr C then chose to sell – he says at a value below the market rate. But, given that Barclays hadn't started repossession action, I don't think it was putting unfair pressure on Mr C. So, I also don't think Barclays caused the loss on the sale of the property that Mr C claims.

#### The application to extend the mortgage term

I think it's reasonable – and responsible – of Barclays to insist that Mr C's proposal to extend the term of his mortgage was affordable. And I think it makes sense that it would do so before a surveyor was instructed to value the property. The process did take some time as Mr C sold assets and made other overpayments to reduce the balance of his mortgage.

I understand that, having sold his assets and reduced his mortgage balance, Mr C felt aggrieved that Barclays still refused his application to extend the term. But I think it did consider Mr C's application seriously. I say this because it did instruct a surveyor once it was satisfied the application met its affordability criteria. And I think it couldn't have known Mr C was using the property as a B&B.

For the avoidance of doubt, I'm satisfied that Mr C was in breach of his mortgage conditions by using the property as a B&B. The mortgage conditions state:

*“Section 18. Your Obligations In respect of the Property and Payments*

*(f)(subject to the terms of any lettings to which we may*

*have consented) to keep the Property available for disposal with vacant possession.*

*(g)subject to the above, to use and occupy the Property as your main residence or the main residence of a related person which for the purposes of this condition means your spouse (or civil partner), parent, brother, sister, child, grandparent or grandchild and for no other purpose;”*

Mr C hasn't claimed that Barclays had previously consented to such a use as a B&B, so I don't think Barclays knew.

Mr C says, after his application was first declined on the basis of the property's use, he did everything Barclays asked before he reapplied – he says he closed down the B&B part of the property and stopped advertising and taking bookings. Barclays went on to decline this application because the property was still 'licensed' as a B&B. Mr C says he wasn't told the licence had to be removed before the application, nor was he ever told that was the reason the application was declined.

Barclays has provided a recording of a telephone conversation between Mr C and one of its advisors which took place before that application was made. During the call Mr C says the licence hasn't been removed and the advisor says that may not be acceptable to Barclay's underwriters. He said he'd find out and confirm to Mr C. I haven't seen any evidence that the advisor ever did get back to Mr C on that point. But I'm satisfied Mr C would have known it may be an issue, so I think he could have acted to remove that risk.

Mr C says he doesn't think Barclays need have declined the application because of the B&B licence. He says the licence didn't materially affect the value of the property and his health concerns meant he was highly unlikely to reopen as a B&B. He also says the removal of the licence wouldn't have prevented reopening in any event as it would be a simple matter to get it reinstated. However, I don't think Barclays could've been expected to know the likelihood of Mr C reopening the B&B based on his health. But I think Mr C's failure to remove the licence may have been an indication to Barclays that he had only closed the B&B temporarily. Given that this would have been a breach of the terms and conditions of the residential mortgage, I think it fair that Barclays declined the application on that basis.

I've also thought about whether Barclays told Mr C that it declined the application because of the licence. Mr C says he wasn't informed of the reason so chose to sell the property rather than remove the licence and reapply for the term extension. Barclays contact notes suggest that Mr C was still in discussion with it about the extension of the term between his final application being declined and him informing Barclay's that a sale had been agreed. A note from February 2018 says:

*“...customer won't remove the B&B licence until they get a definite decision from us...”*

I've not seen that Barclays has confirmed the reason the application was declined until it is referred to as part of a 'timeline of events' provided with Barclays final response letter of July 2018. So, while Barclays contact note is not conclusive, I think, on balance, Mr C was aware of the reason the application was declined. I also think he could have removed the licence

and reapplied for the term extension, rather than sell the property. So, I don't agree that Barclays has pressured Mr C into homelessness as he claims.

### Other issues

Mr C has raised a number of points which I don't think influence the outcome of his main complaints, but I'll address them here.

In more recent correspondence about his complaint, Barclays refers to an ISA that was supposed to be the repayment vehicle for the mortgage. Mr C says it's not reasonable to raise that as it was never mentioned previously. I've not considered that as a point in Barclays favour as I don't think it's relevant to his main complaint points.

Mr C has asked Barclays for all the data it has about his mortgage, including correspondence and statements. He thinks it strange that Barclays can only recover one telephone call and that happens to support its case. Barclays says it didn't receive his previous request, but C says he can evidence that it did. Mr C, in an email to us, has confirmed that he's taking this matter up with the Information Commissioner's Office. Since then Barclays has provided all the written correspondence it had and Mr C's forwarded that to us for consideration.

I've carefully considered that information along with Mr C's accompanying email. I've seen that Barclays did write to him in June 2018, notifying him of its intention to instruct a home visit. That was after it was made aware by Mr C's solicitor that the sale of the property was proceeding. I don't think Barclays should have sent that letter, but I can't see that the home visit happened – Mr C has not said it did – and I don't think he was charged for it. The other correspondence from Barclays is generally what I would expect to see in the circumstances.

I would comment that, while businesses say they may record telephone conversations, they're not always kept for very long. We have to weigh-up the evidence we're provided with by both parties of any complaint and rely on those parties to provide all that's available. In this case, the phone call provided did show that Mr C was made aware that the presence of the B&B licence might be a factor in the underwriter's decision.

### **In summary**

Mr C's mortgage should have been repaid in 2016. If a borrower isn't in a position to clear the lump sum at the end of the term as originally agreed it's the responsibility of the lender and the borrower to come up with reasonable solutions that means the outstanding balance will be repaid. Barclays did explore these options with Mr C, taking into account his individual circumstances – but none of them were viable.

I don't think Barclays put Mr C under unfair pressure to sell his assets or the property, though I don't doubt that he felt pressurised by his circumstances and that may have influenced his decision making. I also think it was reasonable for Barclays to decline the term extension application because the property was licenced as a B&B. So, while I understand that Mr C has sold the property he spent time and money modifying for his needs, I don't think Barclays caused that. Overall, I don't think Barclays has acted unreasonably.

### **My final decision**

My final decision is that I don't uphold Mr C's complaint about Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 December 2020.

Gavin Cook  
**ombudsman**