

complaint

Ms M complains that Barclays Bank Plc mis-sold a mortgage reserve account (an MRA) to her. Since then, it treated her unfairly and has not administered the account properly. The stress has affected her health. Ms M asks that Barclays write off the remaining balance.

Ms M also complains about the sale of a personal loan, which is dealt with as a separate complaint.

background

Ms M took out a mortgage with Barclays in 2001. The MRA came as an option with the mortgage. Initially, Ms M used the MRA for small amounts of borrowing. This increased significantly in 2003 when she says Barclays increased the MRA limit and recommended she use it to repay unsecured debts, including a personal loan, credit card and store card debts. Ms M says:

- The MRA increase in 2003 was not affordable. Barclays also increased her MRA limit over time, without her consent and without considering whether the increases were affordable. She was not told how much the monthly payments would be or that the balance of the MRA would have to be repaid at the end of her mortgage term in 2016.
- Barclays recommended she use the MRA to consolidate unsecured debts in 2003. But it did not explain the consequences of this – such as the cost of repaying the debts over a longer time. If she had agreed payment arrangements with her creditors she would have repaid the debts years ago. She is worse off due to Barclays' advice.
- Barclays has not kept records of the applications or advice in 2001 or 2003, in breach of relevant law.
- Barclays reduced the MRA limit in late 2012, causing arrears on the MRA. She had to increase her monthly payments.
- Despite making payments for many years, a significant balance remains. Barclays did not contact her to discuss ways to repay it.

The adjudicator did not recommend that the complaint should be upheld. He said:

- Information from when Ms M took out the MRA was limited. Due to the passage of time, this was not unreasonable. Available evidence (such as information about the mortgage in 2001 and Ms M's statements) showed the MRA was an option attached to Ms M's mortgage and that Ms M used the MRA in 2002. This suggested she had some understanding about how the MRA worked before the increase in 2003.
- The MRA was flexible about repayments. Ms M could repay all of part of the loan balance at any time. The interest rate on the MRA was lower than the personal loan it was used to repay. It is likely it was lower than the interest rate on Ms M's other debts. So moving debts into the MRA gave Ms M a better opportunity to reduce her debts. This outweighed the disadvantage of securing the debts. While Ms M said she could have reached payment arrangements with her creditors, we can't be sure this would have happened.

- Ms M had financial difficulties since taking out the MRA. But Barclays could not have known what would happen in the future and had not acted unreasonably when offering the MRA.
- Barclays said it reduced Ms M's MRA limit in 2012 due to problems maintaining payments on her main mortgage. Given the link between the mortgage and the MRA, it had not acted unfairly.
- Ms M had changed to interest only payments in 2007. While she said this was temporary, she had not asked Barclays to switch the mortgage back to capital and interest repayments. It seemed unlikely she would have been able to afford the higher repayments.
- Ms M had been in touch with Barclays about repayment of the mortgage and MRA in 2016 but wanted to wait for the outcome of her complaints before deciding what to do.

Ms M did not agree. In summary, she said:

- If the loan had been affordable, she would have paid it off by now. Barclays had not provided documents to show it assessed whether the MRA was suitable or affordable when it increased the limit in 2003 and recommended she use it to consolidate debts.
- She managed the debts before Barclays recommended she consolidate them. It recommended the MRA to cover its mistake in offering her a personal loan in early 2003. Barclays did not consider how she would pay the debt after retirement. She is now 65 and still has to work to pay the debt.
- Barclays increased the MRA limit by £10,000 between 2005 and 2008 without her consent. It moved the debt from a store card into the MRA in 2007 without her knowledge and applied charges. This was irresponsible lending. Records should be available for this time. She took out a second mortgage in 2006 as she was struggling financially.
- Barclays applied interest to the account in the middle of the month, even though she was paid later in the month. This meant she incurred extra interest. It would not change the account unless she paid an administration fee.
- She did not miss payments on her mortgage before the MRA limit was reduced in 2011.
- It was not enough to assume Barclays followed the correct process when offering the MRA. As this is a live mortgage account, Barclays should have kept records to show it assessed the suitability of the MRA.
- Barclays did not return her mortgage to capital and interest repayments after she asked for a temporary switch to interest only payments.

Ms M said her complaint is about the personal loan and amendment to the MRA in 2003, not the mortgage taken out in 2001. In her comments, Ms M raised issues about the affordability of her main mortgage (taken out in 2001) and the switch to interest only payments in 2007.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Some of the concerns raised by Ms M after bringing the complaint to this service had not previously been raised with Barclays. I appreciate this is frustrating, but under our rules I cannot consider issues if they have not been raised with Barclays. Ms M's complaint about the personal loan taken out in 2003 is the subject of a separate complaint, so I make no findings about it here. I have, as Ms M asked, read her submission to the ombudsman dealing with that complaint.

The MRA was a feature of the mortgage Ms M took out in 2001. The limit was increased to allow Ms M to consolidate debts in 2003. This was before the rules in the Mortgage Conduct of Business sourcebook (MCOB) came into force. At the time, Barclays followed the Mortgage Code. This required it to assess whether Ms M could afford to repay the loan. It also had to provide clear information to Ms M so she could make an informed decision about whether to take out the loan.

Was the lending affordable?

During the life of the mortgage, the limit on the MRA changes as the balance on the mortgage account reduces or increases so that, overall, the amount of secured borrowing does not change. It is likely this is why the MRA limit increased over the years.

The change to the MRA limit in 2003 was an exception to this. The overall amount of secured borrowing was increased to allow Ms M to repay unsecured debts. Most of the increase was used to repay a personal loan. Ms M also repaid credit and store card debts.

While information about the increase in the MRA limit is limited, Barclays has provided some internal data. This shows an application form was completed, employment references were requested, the property was revalued, and Barclays calculated the maximum increase based on Ms M's income. On the basis of the information that is available, I think it is likely Barclays followed its processes when assessing whether the loan was affordable. While Ms M says some of the information about her income and expenses used by Barclays was not correct, I have seen nothing to suggest Barclays was aware of this at the time.

The amount Ms M borrowed from the MRA increased after 2003. Ms M says she found the offer of credit too tempting and found it hard to manage the credit as part of her current account. But I don't think it is reasonable to say Barclays was responsible for this. There was no obligation to use the MRA. Barclays sent regular statements to Ms M so she was aware of the increases in her borrowing.

Was the recommendation to consolidate debts suitable?

The interest rate on the MRA was lower than the rate applied to the personal loan, and likely to have been lower than the rate applied to the card accounts. As the interest rate was lower and the balance could have been repaid at any time, I don't think it was unreasonable to recommend that Ms M use the MRA to repay these more expensive debts.

Ms M says she might have been able to agree a payment settlement with her creditors. But we cannot be sure of this. I am not persuaded from the available evidence that Barclays was aware in 2003 that Ms M had financial difficulties. So I don't think it is reasonable to say it should have considered whether Ms M should negotiate a settlement with her creditors.

Did Barclays provide information about the MRA?

The MRA was part of Ms M's mortgage and Barclays says it would have been discussed with Ms M as part of the mortgage process. I can understand Ms M's frustration that records of those discussions are not available. But, on balance, I find it likely Barclays followed its usual process when the mortgage was agreed. I am satisfied Barclays wrote to Ms M in 2003 when it offered to increase the MRA enclosing information about it. It told Ms M it was her responsibility to ensure the MRA was repaid by the end of its term.

Reduction in MRA limit

In late 2012 the MRA limit reduced. This was due to arrears on the mortgage account. In the circumstances, I don't think Barclays made an error in reducing the MRA limit. Barclays agreed payment arrangements with Ms M for her mortgage account and MRA intended to reduce her arrears. I do not find this unreasonable.

Due date for payments

Ms M raised a concern about a mismatch between the dates she was paid and the dates used to calculate interest on the MRA. Barclays gave her information about how to manage the account. Ms M accepts she did not pay the administration fee to make changes to the account. So I am not persuaded Barclays made an error by not making the changes.

Record keeping

Banks do not have to keep information indefinitely. Barclays says it does not have documents relating to the sale of Ms M's mortgage and MRA in 2001 and 2003. I can understand why this is frustrating for Ms M. But I don't think Barclays breached any regulations or acted unreasonably. I don't think it would be reasonable to make any adverse inferences from Barclays being unable to provide these documents.

Change to interest only payments

Ms M changed to interest only payments in 2007. She says this was on a temporary basis and Barclays should have returned the mortgage to capital and interest repayments after six months. I am not persuaded she asked Barclays to switch the mortgage back to a repayment basis. Also, as she was struggling to make payments, it seems unlikely she would have been able to maintain capital and interest repayments. In the circumstances, I don't think Barclays was unreasonable in allowing her to continue to make interest only payments.

Other issues

Ms M says Barclays consolidated a charge card debt into her MRA without her consent. As this had not been raised with Barclays, I cannot under our rules deal with it here.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 9 November 2015.

Ruth Stevenson
ombudsman