

complaint

Mr and Mrs R's complaint concerns their mortgage (structured as a number of sub-accounts), which they hold with Barclays Bank Plc. They have raised a number of issues, including the various interest rates they have been charged, Barclays passing their personal information to a third party and a change in numbering of their accounts.

But Mr and Mrs R have also questioned the validity of some of the further advance sub-accounts that make up the mortgage borrowing. This is on the grounds that the borrowing was either not applied for or there is insufficient evidence to show where the funds were paid to.

background

The adjudicator who considered Mr and Mrs R's complaint didn't recommend it should be upheld. In doing so he addressed each issue they raised. In brief;

- Mr and Mrs R have eight mortgage sub-accounts. Mrs R had questioned why in 2009 Barclays only provided repayment details for seven of these in response to a request from her. The adjudicator was satisfied that Barclays' contact notes confirmed that Mrs R had only asked for the details of seven, although she did discuss the eighth during the relevant telephone conversation.
- The adjudicator noted that Barclays had provided evidence of the dates of application and drawdown of one sub-account, ending 899, which Mr and Mrs R said they did not recall applying for. They were concerned that this account had actually been drawn down in 2007 but the adjudicator was satisfied there was a separate and distinct account applied for and drawn down in 2007.
- There was evidence that Mr and Mrs R had fixed the interest rate on a number of their sub-accounts in 2005. So, the adjudicator wasn't persuaded that they should have been on lifetime tracker rates as Mr and Mrs R had suggested.
- The adjudicator was satisfied that the evidence supported Mr and Mrs R having applied for all the further advances associated with the mortgage.
- In respect of Barclays passing information to a third party, the adjudicator was satisfied that the company that received Mr and Mrs R's details was one instructed by Barclays as part of its collection process. This was allowed for in the mortgage conditions as Mr and Mrs R's account was in arrears at the time.
- Mr and Mrs R queried how their main mortgage account had been redeemed in 2000. The adjudicator thought this was most likely as a result of them requesting a further advance and a new fixed rate. The redemption of the main account formed part of this restructuring.
- Changes to account number that had occurred during the mortgage term were a result of Barclays upgrading its systems.
- The 2000 mortgage offer indicated that the main mortgage and further advance would be repaid by way of a pension. This would explain why the balance had not reduced over the term.

Mr and Mrs R didn't agree with the adjudicator's assessment of their complaint. They continued to question the accuracy of the information provided by Barclays and seek confirmation of where drawn down funds had been paid to.

As no resolution could be reached the matter has been referred to me to decide.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It is apparent that Mr and Mrs R have great concerns about whether Barclays has correctly managed their mortgage. As the adjudicator's assessment indicated, these concerns are many and complex and investigation of them is not helped by the fact that many of the issues raised relate to activity that took place many years ago.

Barclays is not required to keep documentation forever. So, evidence related to the mortgage is limited. Where this is case, I have to base my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of what evidence is available and the wider circumstances.

While Mr and Mrs R have concerns about many aspects of the mortgage – for instance, the interest rates charged, the numbering conventions used for the sub-accounts – it strikes me as reasonable to say that their primary concern lies with the validity of some of the further advance drawn downs. Whether they were actually applied for and where the resulting funds were subsequently deposited.

Barclays has provided evidence to support all applications for the borrowing. While it has not been able to provide detail about specific dates of drawn down or, further, where the money was paid to, I would not see this as particularly unusual or unreasonable. As noted, these events happened some time ago, so records will be limited.

It also in my opinion seems reasonable to conclude that Mr and Mrs R could have retained records of where the funds were paid to, or disputed why repayments were being made for sub-accounts that were either never applied for or never drawn down.

I note that Mrs R has raised the issue of the mortgage account, along with other accounts belonging to her and Mr R possibly being compromised at some point. She has made enquiries along these lines with their other financial service providers. I think that if Mr and Mrs R consider that this sort of activity may be the cause of their concerns about the whereabouts of funds it should certainly be raised in this context with Barclays so it has an opportunity to properly consider it. Mr and Mrs R may also wish to raise it with the police as a criminal matter.

In summary, while I recognise Mr and Mrs R's strength of feeling, I do not consider that the evidence supports a finding that Barclays has acted incorrectly or unreasonably in respect of their mortgage.

my final decision

For the reasons given, my final decision is that I do not uphold the complaint.

James Harris
ombudsman