

complaint

Mr and Mrs G complain the actions (or rather inaction) of the solicitors acting for Barclays Bank Plc caused a delay in the sale of their property. They want the bank to refund the extra interest they had to pay on their loan with the bank and the resulting higher legal costs.

background

The details of this long-standing complaint are well-known to both Mr and Mrs G and Barclays. So I only summarise them here.

- Barclays provided Mr and Mrs G with a loan to support their business;
- Mr and Mrs G had problems keeping up with the loan payments – their property was flooded, restricting their ability to trade;
- In October 2011, Barclays issued a demand for repayment of the loan – but, as Mr and Mrs G were trying to sell the property, the bank agreed to various arrangements for payments;
- A sale was agreed in April 2014 but Mr and Mrs G's solicitor had to chase Barclays' solicitors on several occasions to get the right information to conclude the sale; and
- The sale completed on 1 October 2014.

Mr and Mrs G didn't think it was fair for Barclays to charge them interest up to when the sale eventually went through. The sale could have been completed earlier. And the delays led to them having to pay higher legal fees. Barclays didn't agree. And Mr and Mrs G weren't happy with the way the bank had pursued them for payment – so they contacted us.

Our adjudicator agreed Barclays' solicitors could have given the necessary information to Mr and Mrs G's solicitors much sooner. He thought the bank should only charge interest on the loan up to 31 July 2014. The adjudicator recommended Barclays refund interest from this date and pay Mr and Mrs G interest (at 8% simple) on it. He also said the bank should pay Mr and Mrs G £200 for the upset and inconvenience they'd suffered.

But he didn't think Barclays had done anything unreasonable in how it had pursued Mr and Mrs G for the money owed on the loan. He recognised they might have found this distressing – particularly in light of all the other difficulties they'd been having. But Barclays had been quite accommodating in how Mr and Mrs G serviced the loan for some years.

Neither party was entirely happy with the adjudicator's recommendation. Barclays said it should only refund interest after 31 August 2014 – one month less than recommended. Mr and Mrs G still thought the bank should pay the higher legal costs. And they thought the £200 award for compensation wasn't enough.

After further discussion – and information provided by Mr and Mrs G's solicitors – the adjudicator thought Barclays should pay (at least some of) the higher legal costs. The bank didn't agree.

As the parties couldn't agree what should be paid, Mr and Mrs G's complaint's been passed to an ombudsman to review and issue a decision on.

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 issued a provisional decision on this case in November 2015.

my provisional findings and decision

There wasn't any real dispute Barclays (or more correctly its solicitors) acted as well as they could have done here. The issue I had to consider is what I thought was a fair and reasonable outcome to resolve this complaint.

I thought the adjudicator was right and that he set out the reasoning for his recommendation clearly and quite thoroughly. Barclays should refund interest from after 31 July 2014 and pay interest (at 8% simple) on that amount, up to the date of settlement. Mr and Mrs G's solicitors were chasing Barclays' solicitors from early June 2014. So I agreed it was reasonable to say the sale could have been completed by the end of the following month.

And I thought Barclays should pay something towards Mr and Mrs G's higher legal costs. These totalled £3,240 (including VAT) – excluding disbursements, which Mr and Mrs G would have had to pay whatever date the sale was completed. But I couldn't be certain that all the additional costs stem from Barclays' solicitors actions (or perhaps better described as their inaction).

I decided not to try and calculate a figure – in effect carrying out some form of detailed costing analysis. We are an informal dispute resolution service. I thought a better way to resolve this complaint quickly was to propose Barclays pay £2,500 (to include VAT). I accepted neither party may be entirely happy with this proposal. But I considered it important to try and draw a line under this unfortunate situation as soon as practicable. I hoped both parties would accept my proposal in that spirit.

The higher legal costs I referred to didn't include the amount Mr and Mrs G's solicitors have identified as resulting from providing information in support of their complaint. Strictly speaking, complainants don't need to have legal representation/support to bring a complaint to us. But I could see why Mr and Mrs G might feel this was necessary in this case.

Mr and Mrs G didn't think the adjudicator's recommendation of £200 compensation properly recognised the upset they've suffered. I had some sympathy with this – particularly being aware of the other difficulties Mr and Mrs G have faced over the last few years.

So, I recommended Barclays pay Mr and Mrs G a further £300 compensation, making £500 in total. The additional amount should offset the legal costs they've had to pay their solicitor to help them bring the complaint to us.

In summary, I was satisfied Barclays' solicitors didn't act as well as they could or should have done. The sale of the property could have been completed sooner. And it was right the bank didn't charge interest beyond the point the sale could have taken place.

While my proposed awards for the higher legal costs and compensation were not calculated precisely, I hoped both parties could accept them and bring this matter to a speedy conclusion.

responses to my provisional decision and my further findings

Barclays responded to say it accepted my provisional decision. I should record that I think that's to the bank's credit – as it represents quite some movement from its earlier position.

Mr and Mrs G didn't think my proposal was entirely fair. They accepted my proposal for legal costs and compensation for the upset they'd suffered. But they weren't happy with my endorsement of the adjudicator's position about Barclays charging interest up to 31 July 2014. They thought it should be up to 30 June, and provided a copy of their solicitors' timeline of what had happened.

I have some sympathy for Mr and Mrs G's position. But I still can't be sure the delay in the sale going through by 30 June was solely down to the actions (or inaction) of Barclays' solicitors. Indeed, the timeline shows nothing happening between mid-June (when Barclays' solicitors confirmed they had a redemption figure) and mid-July when Mr and Mrs G's solicitors asked for an updated redemption figure.

So I still think working to a possible sale date of 31 July is the appropriate compromise. I'm sorry if this disappoints Mr and Mrs G.

my final decision

For the reasons I've given, my final decision is that Barclays Bank Plc should refund interest on Mr and Mrs G's loan after 31 July 2014 and pay interest on this amount (at 8% simple) until the date of settlement.

Barclays should also pay Mr and Mrs G a total of £3,000 – being £2,500 (including VAT) towards the higher legal costs they incurred and £500 for the distress and inconvenience they've suffered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 29 December 2015.

Andrew Davies
ombudsman