

## **complaint**

Mr and Mrs M complain that Barclays Bank UK PLC didn't treat them fairly when it knew they were in financial difficulties.

## **background**

Mr and Mrs M took out a repayment mortgage and mortgage current account (MCA) with Barclays in 2004. The MCA terms allowed Mr and Mrs M an overdraft facility up to a specified limit (the reserve) in addition to the mortgage loan. The overdraft debt was secured on their property.

Mr and Mrs M took out additional borrowing in 2011, part of which was to be used to repay unsecured debts and their existing MCA overdraft. In 2012 they extended the term of the mortgage to 2032, which reduced their contractual monthly payments.

In 2012 Mr and Mrs M were in financial difficulty and entered into an arrangement for their unsecured debts. They say they weren't told that the MCA was secured and wasn't included in the arrangement. They've recently found out that the MCA overdraft is over £10,000. Mr and Mrs M say Barclays should have known they were in financial difficulty in 2012. They say they missed payments and contacted Barclays for help, but it didn't respond.

Our investigator didn't recommend that the complaint should be upheld. She said Mr and Mrs M had maintained their mortgage payments. They missed one payment in 2010, which they said was due to Mr M being paid weekly rather than monthly. They didn't tell Barclays they were in financial difficulty. And it wasn't clear what assistance Mr and Mrs M could have expected from Barclays.

Mr and Mrs M didn't agree and so the complaint has been passed to me.

## **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.

Mr and Mrs M entered into a trust deed in 2012. This is an arrangement available in Scotland for individuals who are struggling with debt repayments. It's designed for unsecured debts. Once the trust deed is in place, unsecured creditors can't take enforcement action. The borrower has to make payments until the term ends, usually four years. After this, the balance of any unsecured debts is written off.

The trustee contacted Barclays in 2012. Barclays provided the account balances for the mortgage and the MCA. I think the fact that Mr and Mrs M were entering into a trust deed would have been alerted Barclays to the possibility they were in financial difficulties.

However, Mr and Mrs M weren't in arrears with their mortgage in 2012 and they've been up to date with payments since then. There's no evidence they told Barclays in 2012 that they were in financial difficulties or that they needed assistance. As Mr and Mrs M were able to

maintain their mortgage payments, I'm not sure what assistance Barclays could reasonably have offered.

Barclays has a note of a call in December 2013 with Mrs M. Mrs M said they didn't have financial difficulties and she was aware the MCA would have to be repaid when the mortgage expires. She didn't tell Barclays they'd have difficulty with this or ask for help.

Barclays sends annual statements to Mr and Mrs M which set out the outstanding mortgage balance and the balance owed (the overdraft) on the MCA. So Mr and Mrs M would have been aware of the amount owed and that it increased as interest was applied to it.

Mr and Mrs M's mortgage and MCA are secured and were not included in the trust deed. I can understand Mr and Mrs M disappointment about this: if the MCA had been included in the trust deed the debt would have now been written off.

But I don't think Barclays misled Mr and Mrs M about this. I haven't seen any evidence Barclays told Mr and Mrs M the debt was included in the trust deed or that it would be written off. And the terms of the MCA say the overdraft is secured on the property.

Mr and Mrs M now have to consider how they will repay the MCA overdraft debt, which has to be repaid before the mortgage term expires. I appreciate that their financial circumstances might mean this is difficult. If this is the case, I'd urge them to remain in contact with Barclays and provide the information it needs to assess how it can help them. And I'd expect Barclays to treat Mr and Mrs M fairly.

### **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 Mr and Mrs M to accept or reject my decision before 1 March 2020.

Ruth Stevenson  
**ombudsman**