

The complaint

Mr T is unhappy that the reserve limit on his Mortgage Current Account (MCA) with Barclays Bank UK PLC was reduced without his agreement.

What happened

Mr T took out a mortgage with Barclays in 2002. Linked to the mortgage was a current account with a reserve, or overdraft, linked to it. The account was updated in 2007 to a MCA.

The MCA is a bank account with a reserve, or overdraft facility, as its predecessor account was. As capital is repaid off the mortgage, the overdraft limit on the MCA reserve increases by the same amount, due to what Barclays calls 'rebalancing'. This can be spent by the borrower through the MCA and is operated on an interest-only basis. There are no set arrangements for the repayment of any amounts that have been spent.

The reserve amount becomes immediately repayable in full when the related mortgage account is repaid – either when the mortgage reaches the end of its term or if the mortgage is repaid sooner (for example, on sale or remortgage of the property).

The terms and conditions in place when Mr T took out his mortgage include the terms of the linked account that was taken out at the time, and later became the MCA. These state:

'33.4 We may vary (either by increasing or decreasing) or withdraw the amount of the Mortgage Reserve Account Reserve and the period for which it is available by giving you at least 14 days written notice, or less if you agree.'

The terms and conditions of the MCA that Mr T currently has state:

'30. Our Right to Withdraw or Vary the Mortgage Current Account Reserve and the Mortgage Current Account Limit

...

2. *We may withdraw any unused part of your Mortgage Current Account Limit for any reason at our total discretion with immediate effect.*
3. *In addition to our rights under Conditions 30(1) and 30(2), we may vary (either by increasing or decreasing), withdraw or suspend access to any amount agreed under the Mortgage Current Account Reserve but not drawn down by you, and the period for which it is available. We may do this where:*

(g) we reasonably believe that such action is necessary for us to comply with our obligations as a responsible lender and that our failure to act would negatively impact your ability to pay us any amounts set out in these Conditions.'

In November 2023 Barclays wrote to Mr T to explain that it intended to reduce the reserve limit to £3,500 in January 2024. It explained that to ensure the reserve limit was set at an appropriate level, there would be regular reviews for all customers. Barclays explained that if

Mr T wanted a reserve limit that was higher than £3,500, up to the then existing limit of £127,700, he needed to call it. If he did so, it would complete an income and expenditure exercise to ensure he could afford the requested level of borrowing, if he were to use it to its maximum.

Mr T called Barclays around a week after receiving the letter. He complained about the reserve limit being reduced. He also declined to complete the affordability assessment as he considered the reserve limit was a contractual right and Barclays was in breach of contract in trying to change it. At that time the reserve limit was £127,700.

Mr T complained in January 2024, as he was unhappy about the reduction. This was because he had planned to use the reserve the following year to complete some home improvements.

Barclays responded to the complaint in a letter of 4 January 2024. It explained that it reviewed the reserve limit on all MCA accounts to ensure that the amount of borrowing was suitable and affordable, as circumstances change over time. Barclays confirmed the terms and conditions allowed it to do so, as did the retail customer agreement. It didn't consider that it had done anything wrong and so didn't uphold the complaint.

Mr T didn't accept Barclays' response and referred his complaint to this Service. He told us that he had planned to use the reserve to fund home improvements and as a result of the limit being reduced, he had suffered stress and anxiety. He also said that he feels he has been discriminated against because of his age.

One of our Investigators considered the complaint, but he didn't recommend that it be upheld. At his request, Mr T was subsequently sent a copy of the original terms and conditions for his mortgage and linked current account, along with the terms and conditions of the MCA from when the account was updated. It was also confirmed that Barclays didn't have copies of his application documents from 2002.

Mr T said he hadn't accepted an offer for the MCA account and so those terms and conditions didn't apply. He also said that he wouldn't confirm his acceptance or rejection of the Investigator's conclusions until he was sent a copy of the terms and conditions of the original current account. Mr T said he didn't accept the document provided was the applicable one given that it was not dated. He confirmed that he also could not locate a copy of the documents from 2002 when the mortgage was taken out.

As agreement couldn't be reached, it was decided the complaint should be referred to an Ombudsman.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr T has indicated that he considers that in reducing the limit of the reserve on his account, Barclays breached the contract he has with it. He has also said that he thinks he has been discriminated against because of his age.

It is for the courts to make findings on matters of law, and it wouldn't be appropriate for me to make a finding that Barclays acted in breach of the law. My role requires that I make my decision on what I believe to be fair and reasonable in all the circumstances. So whilst the law is a relevant consideration, our Service doesn't automatically approach a complaint in the same way that a court might.

That said, the terms and conditions of the mortgage and linked current account Mr T originally took out allowed Barclays to alter the reserve limit, or remove it altogether, at its discretion. However, as the account was updated to an MCA in 2007, it is those terms and conditions that are the relevant ones in this case. Again, the terms and conditions allow Barclays to do what it has.

I would also explain that in 2014 the Financial Conduct Authority (FCA) as part of the Mortgage Market Review (MMR) tightened up the rules on both checking affordability and on checking of interest-only repayment strategies. As I have said above, the MCA reserve operates on an interest-only basis and it had no pre-arranged repayment strategy. This means that the facility could represent a risk to a borrower as there is a requirement for it to be paid off at the same time as the mortgage. As such, as a responsible lender, it is not unreasonable for Barclays to ensure that any future borrowing from the MCA reserve would be affordable, especially as the end of the term approached.

Mr T has said that Barclays discriminated against him when it reduced the reserve limit. As I have said above, it is not this Service's role to make a finding of law. However, I must consider whether Mr T was treated fairly by Barclays. A lender is entitled to set its own policies and procedures. One of Barclay's procedures is that it reviews the reserve limit on MCA accounts on a regular basis and, as appropriate, reduces the limit to support the borrower in ensuring all borrowing is repaid by the end of the mortgage term. That process is applied to all its MCA customers, irrespective of age. As such, I can't find that Mr T has been treated unfairly in being subject to the same reviews as all Barclays' other customers with the same type of account.

Mr T has commented that neither of the terms and conditions that have been provided contain his signature accepting them. The terms and conditions that applied to a mortgage and any linked accounts are not something that a borrower would be required to sign. There would have been a mortgage offer that Mr T needed to sign to accept, and the mortgage deed for the mortgage. The linked current account was a condition of the mortgage, so Mr T may not have needed to sign any additional documentation for that to be set up. The fact that Barclays can't provide any of the documentation Mr T signed doesn't mean that he is not bound by the terms and conditions of the accounts he has with Barclays. He clearly did take out the mortgage and linked account and that process would have required him to accept the terms and conditions of the accounts. Also, Mr T has used the MCA and its reserve over a number of years, and as such can be deemed to have accepted the terms and conditions. I would also confirm that Barclays was not required to keep copies of the documentation from 2002, it simply had to keep records of the mortgage and the current account, which it has done.

I would also comment that Mr T had the option of going through an affordability assessment if he wanted to keep the MCA reserve limit at the same level. He chose not to do so. Overall, I am not persuaded that Barclays did anything wrong or treated him unfairly.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr T to accept or reject my decision before 24 October 2024.

Derry Baxter
Ombudsman