

The complaint

A limited company, which I'll refer to as C, complains that Barclays Bank UK PLC failed to set up the capital repayment holiday it was entitled to on its bounce back loan ("BBL") and then made further errors instead of correcting the problem.

C is represented by the directors, Mr and Mrs R.

What happened

In May 2020, C took out a £50,000 BBL from Barclays.

Under the terms of the BBL scheme, there were no repayments for the first 12 months, so repayments began in June 2021. Customers are then entitled to apply for a number of different ways to reduce repayments during the life of the loan. These are referred to as Pay As You Grow ("PAYG") options.

C made its first repayment but then applied for a six month PAYG capital repayment holiday. This reduced the loan payments to interest only between July and December 2021.

After the repayment holiday ended, a full loan repayment was due in January 2022. The direct debit attempted to claim this from one of C's accounts, but there were insufficient funds. So, the loan fell into arrears.

C applied for a full capital and interest repayment holiday on 20 January 2022. The Barclays agent that Mrs R spoke to said this would be set up from February 2022, but this was wrong. In fact, there wasn't enough time to set it up for February, so it ran from March until August 2022.

Barclays paid C £100 in compensation for this first error regarding the repayment holiday start date.

Whilst the full repayment holiday was in place, C made regular payments to reduce the arrears, bringing the loan fully up to date in July 2022.

Mrs R agreed with Barclays to start a further capital repayment holiday from September 2022 to February 2023. However, due to a bank technical problem, this wasn't put in place. So the BBL began to get into arrears again.

Mrs R complained again and the bank again agreed they had made an error. They agreed to reset the loan as though the repayment holiday had been put in place from September 2022 and paid C a further £150 compensation.

Barclays failed to put things right as they had promised and instead, on 15 December 2022, issued a formal demand for repayment of the BBL in full. And as the balance of the loan wasn't repaid, the BBL and C's current accounts were moved to recoveries.

In March 2023, C was contacted by a debt collection agency to which Barclays had transferred the loan. C complained again.

Barclays replied to the complaint on 13 April 2023 and acknowledged the accounts were moved to recoveries in error. The bank said it should have made the required amendments to the loan and said the accounts and the BBL would be moved back out of recoveries once C had paid the outstanding arrears – a figure that they promised to provide. Barclays paid an additional £200 compensation.

C contacted the bank again in June as it hadn't heard anything more and in July 2023, made a further complaint. Barclays replied on 8 August and offered £150 compensation for the delay. The bank said that arrears of £7,163.93 would need to be repaid to reinstate the loan and the company's accounts.

Mrs R was unhappy with this and didn't accept the £150. She said the arrears balance was incorrect as only the interest of roughly £100 per month should have been due between September 2022 and February 2023. The bank looked into this again but reconfirmed their position that it was too late to backdate the second capital repayment holiday, so C would need to pay the full amount of arrears.

C remained unhappy with this and asked our service to look into things. After our involvement, Barclays agreed to reinstate the loan as it would have been if capital repayment holidays had correctly been put in place from September 2022 to August 2023. They said that repayment of the recalculated arrears total would be subject to an affordability assessment and the arrears would need to be repaid over a maximum of one year.

I issued a provisional decision on 16 April 2014. I upheld the complaint and provisionally concluded the bank should reconstruct the loan on the basis that the four repayment holidays were taken on the dates set out below and the term extension was put in place from November 2023. I said C should be given the opportunity to clear the arrears over twelve months and Barclays should pay an additional £300 in compensation.

My provisional decision said:

It seems to me that both sides now agree about the principal facts of the case, so there is no need for me to reconsider them here. Barclays accept that they have made errors and have agreed to reconstruct the loan to put things right. C accepts that there are arrears that need to be paid.

Both sides agree that, if all had gone correctly, C's BBL should have had all its PAYG repayment holidays by now. For clarity, these should have been:

- Capital repayment holiday from July to December 2021
- Full repayment holiday from March 2022 to August 2022
- Capital repayment holiday from September 2022 to February 2023
- Capital repayment holiday from March 2023 to August 2023.

Would C have taken the PAYG term extension and when?

There remains a dispute over the PAYG term extension. Barclays says that there is no record of C ever requesting this. So the bank's position is that C can request it in the future, but they are not prepared to put it in place retrospectively.

Mrs R, on the other hand, says she did request the term extension, by phone and secure message. But Barclays have found no reference to this in phone calls and the

secure messages are no longer available. Mr and Mrs R have also argued that they would have requested the term extension in 2023 had C's BBL been accessible in the normal manner, but as Barclays had wrongly made formal demand and transferred it to recoveries in December 2022, they didn't have this option.

I've thought carefully about this question. I've looked at Barclays' records and listened to Mrs R's phone conversation from July 2022. In this call, Mrs R was asked if she would like the bank to talk her through the available PAYG options, but she declined and said she just wanted a six month capital holiday. I'm satisfied from this that C didn't want to extend the BBL term at that stage. All subsequent phone calls I have seen referenced related to complaints and Barclays' failure to resolve them, but the records do not indicate a term extension was mentioned in any of these. Neither was it mentioned on our complaints referral form dated 29 August 2023.

Mr and Mrs R provided a comprehensive timeline of C's complaint and I therefore think it more likely than not that they would have mentioned the term extension, had they requested it before they referred the complaint to the Financial Ombudsman. I can see that Mr and Mrs R didn't mention it to us until our investigator suggested the possibility to them. On balance, I'm therefore not persuaded they would have asked for a term extension earlier if Barclays had not made any errors.

That said, it is evident that C would now like a term extension. The bank first mentioned this option on 2 October 2023 and Mr and Mrs R said they would have taken it as soon as it was put to them. Our investigator was still waiting for further information from the bank at this stage. I think it's reasonable to say that, had it been an option for them, Mr and Mrs R would have chosen to put the PAYG term extension in place as soon as possible after 2 October 2023, which would have been from the November 2023 repayment.

I am therefore minded to direct the bank to reconstruct the BBL as though the PAYG term extension was put in place with effect from the November 2023 instalment.

Is it reasonable for Barclays to ask for an affordability assessment?

C has suggested that this request is contrary to the terms of the BBL scheme. I don't agree. Mr R may be thinking here of the fact that BBLs were self-certified and designed for speed. Banks were therefore not expected to carry out their usual checks before lending, including affordability checks. However, once customers get into arrears, different rules apply and banks are supposed to follow their usual recoveries procedures.

C hasn't paid anything towards the BBL since July 2022. Whilst it might not have been put in default without the bank's errors, there are still arrears from September 2022 onwards and it is therefore still appropriate, in my view, for the bank to look into affordability before agreeing a proposal for clearing those arrears.

As our investigator pointed out, the bank are also acting responsibly by seeking to ensure that by reconstructing the loan, they don't put C into a worse position than it would be in otherwise. If the loan was reinstated but the company was unable to meet its ongoing obligations, then this would lead to a further event of default. And given that this information remains on the company's credit file for six years, if it was at risk of failing to repay in the future, C would probably be in a better position by not reinstating the loan. So for this reason too, I think Barclays' requirement for an affordability assessment is fair.

Repayment of the Arrears

C has always accepted that there are arrears to be paid, although it has taken Barclays some time to come up with the correct figure for them.

The BBL was brought back into order in July 2022, but since then, no repayments, including of interest, have been made. I am unable to check the bank's figures precisely, but Barclays have now come up with a calculation that I consider appears correct. However, I am now proposing a slight change to the calculation regarding the term extension, which will affect the arrears total. On this basis, subject to an affordability check, C must pay:

- Interest arrears for 12 months (two capital repayment holidays) totalling £1,214.17.
- Full capital and interest arrears for September 2023 and October 2023 totalling £2,668.06.
- Capital and interest arrears based on the revised term from November 2023 onwards (currently November 2023 to April 2024). I do not have an exact figure for these based on this date, but it is likely to be in the region of £660 a month.

To give C an indication of the amount it will need to pay, this would mean total arrears of around £7,843. Spread over 12 months, this would be £653 to pay on top of the ongoing monthly repayments of around £660.

Current account charges

C says that moving its current account to recoveries has resulted in its losing some functionality for its bank account, although it does retain some limited access. I understand that it no longer has online banking. I think this is more likely than not to be the result of the bank's error in putting the BBL into default.

The bank have agreed to refund the current account charge of £8.50 a month from March 2023 onwards. I'm not sure if this is still being debited monthly, but if so, I think it would be fair for the bank to refund this charge until such time as this complaint is settled.

Inconvenience

Barclays have already paid C £450 in compensation for the inconvenience caused by their errors. They have also offered a further £150. I agree with our investigator that £750 is a fair amount in total to cover all the bank's errors, so I intend to direct the bank to pay an additional £300.

As our investigator explained, I don't have the power to award compensation for personal distress experienced by the directors due to the bank's errors. This is because the eligible complainant here is the limited company and limited companies cannot be distressed.

C accepted my provisional decision, although expressing doubts as to whether Barclays would comply. Mr R pointed out that C still had no access to its bank account and was still being charged account fees and interest.

Barclays replied to my decision to say that they would accept it, as long as Mr and Mrs R co-operated in an affordability assessment and that that assessment clearly demonstrated that they could afford to meet the payment commitments.

The bank then conducted the assessment by telephone with Mr R. They said C only received funds from property sales and therefore couldn't prove that it could meet monthly commitments. They also said C's turnover was nowhere near what had gone through the account in 2022 and its balance sheet showed a large amount of creditors outstanding.

Barclays' conclusion was that C could not afford the payments and they therefore argued that the best and right course of action was for the accounts to remain in the recoveries process.

Mr R explained C's business model, which he felt did not fit neatly into Barclays' affordability questions. He made the following points, in summary:

- C had never failed to meet its commitments and always complied with the BBL rules. It was Barclays that had failed.
- C is a property developer. It incurred a lot of costs, carried some debt, then sold a property and paid its creditors.
- During Covid, C bought a development property. Planning permission was granted in early 2023 and C had started work on it in August 2023. There would be sales this year.
- C had been forced to open a bank account elsewhere to conduct its business, so all turnover was going through that account now.
- C could meet its obligations if Barclays administered the BBL effectively. The repayment of the BBL was built into its business plan.

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.

Having done so, I haven't been persuaded to change my provisional view of the fair outcome here. Barclays' errors mean, in my view, that C has not been given the chance to demonstrate it can repay its BBL normally. C wants to be given this chance and I think this would be fair and reasonable. I'll explain why I've reached this conclusion below.

I think it's relevant that BBLs were available to all types of businesses without an affordability assessment. There is only a question of affordability in the circumstances here, because C has now not made any loan repayments for some time, because it has been waiting for Barclays to reconstruct the loan and tell C how much it owes.

I haven't seen any evidence of financial distress on the part of C. It has used all its PAYG options, but this could be seen as just sensible commercial judgement. The only error that C has made, as far as I can see, is that it missed a loan repayment in January 2022. C then demonstrated good faith by making up this payment (and February 2022's, which was also missed due to misinformation from Barclays). There's no evidence that C would have got further into arrears – and hence that an affordability assessment would have been required – without Barclays' error.

I'm also mindful that C is only being dealt with by Barclays' recoveries function because of Barclays' error – Barclays promised to tell C how much it owed, then failed to do so and transferred C to recoveries while the ball was still in the bank's court.

Barclays have argued that they have obligations to treat their customers fairly and that ensuring they can afford their loans is part of this. I agree. But I'm satisfied that these obligations would not have been triggered in this case, without the bank's mistakes. For this reason, I have changed my provisional view and no longer consider that C should have to demonstrate affordability in the circumstances.

I also accept C's argument that not all business have smooth cashflows and this doesn't mean they can't meet their obligations. Barclays must have known that C was a property developer when it opened its current account. This means C's cashflows will be irregular, but it doesn't necessarily mean it won't meet its repayments.

For all these reasons, I think in these specific circumstances, it is fair and reasonable to reconstruct C's loan and give C the opportunity to repay it, and make up the arrears, via monthly repayments. If C then fails to make these repayments, once Barclays has confirmed the amounts required, then Barclays can resume their usual arrears processes as they see fit.

Putting things right

My aim is to put C in as near as I can to the position it would have been in were it not for Barclays' errors.

My decision is that Barclays should:

- Remove C's BBL from its recoveries department and reconstruct the loan on the basis that the four repayment holidays were taken on the dates set out above and the term extension was put in place from November 2023.
- Inform C of the new monthly repayment (bearing in mind that interest will vary slightly) and provide C with the means to pay by monthly direct debit if C chooses.
- Recalculate an updated arrears figure as at the date C accepts my decision (since arrears are accumulating monthly), adjusting for reduced repayments from November 2023 onwards because of the term extension.
- Spread the arrears balance over twelve months and inform C what it must pay monthly on top of its capital and interest repayment.
- Remove C's current account from recoveries and remove any restrictions put in place because of the bank's incorrect default of the BBL, such as internet banking access. If C no longer wants a current account with Barclays, Barclays should arrange to put in place a charge-free lending servicing account for the exclusive purpose of making the the BBL repayments.
- Refund all monthly current account charges of £8.50 per month debited between March 2023 and the date of settlement.
- C has mentioned that it is now being charged interest on its current account while in recoveries. If this is due to the cancellation of a limit while in recoveries, or due to the debiting of charges creating an overdraft, then this should also be refunded.
- Amend C's credit records to remove the BBL default.
- Pay an additional £300 in compensation for the inconvenience caused by the bank's errors.

My final decision

I uphold this complaint and direct Barclays Bank UK PLC to put things right and pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 13 June 2024.

Louise Bardell
Ombudsman