

## **The complaint**

Mr K's complaint arises from a mortgage he holds with Barclays Bank UK PLC. The mortgage is joint names of Mr K and his ex-wife. Mr K is now the sole occupant of the property.

Mr K's complaint is that after the Department for Work and Pensions (DWP) made a lump sum payment in relation to his claim for Support for Mortgage Interest (SMI), this put the mortgage account in credit. However, Barclays has refused to refund this credit to Mr K.

Mr K wants Barclays to refund the balance of the lump sum to him, plus interest. Mr K says that Barclays' failure to do so is allowing his ex-wife to take financial advantage of him.

## **What happened**

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr K being identified.

So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

I'm also conscious that part of Mr K's concerns relate to the actions of the joint account holder. As she isn't a party to this complaint, it's not appropriate for me to comment on any dealings Barclays may have had with her, as I don't have her consent. The resolution of financial issues arising on divorce is something that Mr K and his ex-wife will need to resolve between themselves, through solicitors or the court in the absence of agreement.

The crux of this complaint is that Mr K made a claim for SMI through the DWP. Barclays has accepted it provided Mr K with an incorrect address where the forms needed to be sent, which delayed the claim. During the period Mr K was awaiting approval and payment of the claim, he paid the mortgage instalments himself.

When the claim was eventually approved and implemented, the payment from the DWP put the account in credit by £6,000. Mr K wanted this refunded so he could use it in relation to developing the property, and initially Barclays told him it might be able to do this. However, this wasn't correct and Barclays has now said that it's unable to refund any overpayment made by the DWP.

Mr K complained. Barclays issued two final response letters, apologising for the administrative errors in relation to the incorrect address. The bank acknowledged this had impacted Mr K's credit file for March 2023, and said it would correct this. However, Barclays said that it wasn't able to pay overpayments of SMI to Mr K. The bank also clarified that this decision was unaffected by a marital dispute marker on the account.

Barclays paid compensation of £650 in total to Mr K for its poor customer service and corrected Mr K's credit file as it said it would.

Dissatisfied with Barclays' response, Mr K brought his complaint to our service. An Investigator looked at what had happened but didn't think the complaint should be upheld. She explained that generally where there are overpayments on a joint mortgage account, the bank will require both account holders to consent before any overpayment is released. However, this had nothing to do with the reason why Barclays wouldn't pay the overpayment of SMI to Mr K. The bank wasn't able to pay this to Mr K because it was intended for the mortgage.

The investigator therefore didn't think Barclays was under any obligation to pay the overpayment to Mr K. She thought the £650 offered for customer service issues was fair and reasonable.

Mr K disagreed with the Investigator's findings and asked for an Ombudsman to review the complaint. He asked for several extensions of time, and I note it is now almost six months since the investigator issued her findings, the last deadline for Mr K to respond having expired on 24 June 2024. The case has therefore been passed to me for a final decision.

### **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'm afraid I have disappointing news for Mr K; I'm not upholding his complaint. These are my reasons.

First, I note Mr K has recently suffered a bereavement, and I would like to offer my condolences. I can see from what he has told us that Mr K has had a lot to deal with recently, and it also seems that the financial issues relating to the breakdown of his marriage have been contentious.

As I said at the outset, it's not appropriate for the Financial Ombudsman Service to comment on disputes between joint account holders, and so I won't. The issue I am being asked to decide here – whether or not Barclays should pay an overpayment of SMI to Mr K – is one that does not involve the joint account holder. It arises from Mr K's claim for SMI.

The rules governing payment of SMI are The Loans for Mortgage Interest Regulations 2017. Schedule 4 part 5 to Regulation 17 makes specific reference to the way overpayments are to be applied.

In the Regulations quoted below, the qualifying lender is Barclays, the claimant is Mr K, the owner-occupier payment is the mortgage interest which qualifies for SMI, and the qualifying loan is the mortgage to Barclays.

#### ***“Application by qualifying lenders of any amount which exceeds liability***

- 5 (1) *Where*
- (a) *a direct payment is made to a qualifying lender under regulation 17(1);*
  - and*
  - (b) *the amount paid exceeds the claimant's liability to make owner-occupier payments to the qualifying lender.*

*the qualifying lender must apply the amount of excess in accordance with sub-paragraph (2).*

- (2) Subject to sub-paragraph (2), the qualifying lender must apply the amount of excess as follows:*
- (a) first, towards discharging the amount of any liability of the claimant for owner-occupier payments in respect of the qualifying loan*
  - (b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay:*
    - (i) the principal sum in respect of the qualifying loan*
    - (ii) any other sum payable by the claimant to that lender in respect of that qualifying loan.”*

There is therefore no provision in the Regulations for an overpayment of SMI to be made to the claimant, that is, Mr K. This is the case whether the joint account holder might agree to it or not.

I fully understand how other financial issues arising from the breakdown of Mr K's marriage have contributed to him thinking that his ex-wife was somehow involved in preventing him from getting a refund which he believed was due to him. However, I'm satisfied that overpayments of SMI can only be applied as set out in the above Regulation, and in no other way, so no refund was ever due to Mr K from the overpayment of SMI.

Whilst I know this isn't the outcome Mr K was hoping for, I hope that my explanation will help to set his mind at rest that this issue is unconnected with Mr K's marital issues and is instead wholly due to Barclays' obligation to comply with DWP Regulations.

Barclays has accepted it made customer service errors – giving Mr K an incorrect address and leading him to believe for a time that a refund might be made to him. I'm satisfied the £650 compensation paid by Barclays for this is fair, reasonable and proportionate to the errors made.

Barclays also acknowledged that giving Mr K the wrong address for the forms meant that his credit file was impacted for March 2023. The bank has confirmed it has corrected this entry. There is therefore nothing further I require Barclays to do to put things right.

### **My final decision**

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 1 August 2024.

Jan O'Leary  
**Ombudsman**