

The complaint

This complaint has been brought by Mrs G in her capacity as administrator of the estate of the late Mr G.

The complaint is about a mortgage account the late Mr G held with Barclays Bank UK PLC. Mrs G says that Barclays has acted unfairly in treating the mortgaged property as abandoned, taking possession, and marketing it for sale.

To settle the complaint Mrs G wants Barclays to do the following:

- Allow agents appointed by the estate to sell the property.
- Write off any interest charged to the mortgage account from May 2023.
- Pay compensation for the stress caused by Barclays due to a data breach.

What happened

I won't 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 all the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to the late Mr G or Mrs G 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.

In 2007 Mr G took out an interest-only mortgage with Barclays, repayable in 2017. Mrs G has explained to us that since 2009 she and Mr G had lived in a rented property as their principal address, which was 250 miles from the property mortgaged to Barclays.

In 2016 Mr and Mrs G applied to Barclays for a joint mortgage, which did not proceed. Shortly after the application was made Mr G was diagnosed with dementia. The mortgage term lapsed and the outstanding debt owed to Barclays wasn't repaid. In May 2019 Barclays was granted a possession order by the court.

I am sorry to note that Mr G passed away in 2020. He died intestate and Mrs G was granted Letters of Administration to enable her to administer the estate. This required her to pay off all debts owed by the estate, the primary debt being the mortgage owed to Barclays.

In March 2020, due to the pandemic, a 12-month hold was put on any enforcement action. In fact it wasn't until February 2023 that Barclays sent a field agent to the property. The agent reported back that the property appeared to be in an abandoned state and that neighbours had confirmed nobody had lived there for at least ten years. This is consistent with what

Mrs G told us, which is that since 2009 she and Mr G had lived 250 miles away from the mortgaged property.

Barclays took possession of the property in May 2023, and put a notice on the property confirming this. Mrs G complained but Barclays didn't uphold the complaint. In its final response letter Barclays noted that Mrs G had told the bank in June 2023 that nobody lived there. Barclays confirmed that it had acted in accordance with its policy on abandoned properties.

Dissatisfied with Barclays' response, Mrs G complained to our service on behalf of the estate. An Investigator looked at what had happened but didn't think the complaint should be upheld.

The Investigator explained that Barclays hadn't been provided with the Letters of Administration, and that correspondence had gone unanswered. The Investigator was satisfied that, in all the circumstances, Barclays' actions were reasonable.

Mrs G disagreed and asked for an Ombudsman to review the complaint. Mrs G thought Barclays had acted unfairly in taking possession and that the bank should have allowed her to sell the property on behalf of the estate. Mrs G also said that Barclays had committed a data breach when its field agent asked neighbours about who occupied the property.

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.

The starting point for this complaint is that the mortgage was due to be repaid in 2017, when the ten-year term came to an end. I appreciate that by the time the term ended, Mr G was incapacitated and wasn't able to make any decisions about his finances. However, after he passed away in 2020 and Mrs G was appointed Administrator of his estate, there was no reason why she could not have taken steps to sell the property at that point in order to repay Barclays.

I note the Letters of Administration were granted on 6 July 2020. On 7 July 2020 Mrs G went into a branch and completed a form, providing Barclays with a copy of Mr G's death certificate, but not the Letters of Administration. Barclays wrote to Mrs G several times at the address she provided on the form asked for a Grant of Probate, but received no reply. Barclays required either a Grant of Probate or Letters of Administration before it was able to engage with any representative of the estate. This is standard practice.

Because Barclays had received no response to the four letters it sent Mrs G – at the address she'd given the bank – I'm satisfied that it was reasonable for Barclays to assume there was no-one authorised to represent the estate. In the circumstances, and given the lack of proposals on how the mortgage would be repaid since the term expired in 2017, Barclays was, I find, entitled to take possession.

I've seen the photographs of the property taken at the time Barclays took possession, and I've looked at the agents' online listing. These are clearly suggestive that the property hadn't been occupied for many years. Indeed, Mrs G has told us that since 2009 she and Mr G lived 250 miles away, and Mrs G has put forward no credible evidence to persuade me that she or any other family member was in actual day-to-day occupation of the property as their home.

Barclays was empowered by the possession order granted in 2019 to take possession of the property. Barclays also acted in line with its property abandonment policy. I'm satisfied the bank acted reasonably in taking possession of the property in 2023, as the mortgage debt had by then been outstanding for six years. No repayment proposals had been put forward, and in all the circumstances, I'm satisfied it was reasonable for Barclays to take control of the sale of the property given that it appeared to have been abandoned.

Barclays marketed the property after taking advice from property and estate agents, and I'm satisfied the bank was entitled to rely on their expertise about the value of the property and how it should be marketed. I don't know how much is owing on the mortgage – and it's not relevant for the purpose of this decision. However, I am told that exchange of contracts is imminent, and upon completion of the sale, if there is any surplus after payment of the mortgage and the costs of sale, it will be paid to the estate. If there is any shortfall between the proceeds of sale and the amount required to repay the mortgage and costs of sale, the estate will be liable to repay the shortfall debt out of any other assets in the estate.

Interest will continue to accrue to the mortgage account until the mortgage is redeemed. There is no basis on which I consider it would be fair or reasonable to expect Barclays to write off the interest that has accrued since May 2023.

Overall, I'm unable to find Barclays has acted unfairly in relation to its actions in taking possession of the property and putting it up for sale.

Mrs G has also complained that Barclays committed a data breach when its field agent spoke to a neighbour about the property. The General Data Protection Regulation (GDPR) and the Data Protection act do not apply to a person once they have died. There has therefore been no breach of the late Mr G's data.

In relation to Mrs G, she is bringing this complaint in her capacity as Administrator of the late Mr G's estate, not in her own personal capacity. As Administrator, her role is limited to putting forward the estate's complaint, rather than any complaints she may have about how Barclays' actions may have affected her personally. I will also explain that we can't compensate the Executor or Administrator of an estate for any impact on them personally when representing the estate of a deceased consumer.

Therefore, if Mrs G believes Barclays has breached her personal data, this is something that is best raised with the Information Commissioner's Office, which is the organisation responsible for dealing with data breaches.

I know this isn't the outcome Mrs G was hoping for. But after taking account of all the circumstances, including the length of time since the mortgage term expired, and the failure to repay the debt owed to the bank, I'm unable to find that Barclays has done anything wrong.

If Mrs G is unsure about her responsibilities as Administrator of the late Mr G's estate, she might find it helpful to speak to an estates and probate solicitor. Mrs G can find details of solicitors specialising in the administration of estates on the Law Society website.

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 the estate of Mr G to accept or reject my decision before 25 October 2024.

Jan O'Leary
Ombudsman