

The complaint

Ms A has complained about how Barclays Bank UK PLC has treated her in respect of a mortgage account she holds. She feels that Barclays, and its solicitors, haven't treated her fairly in respect of legal action that has been taken on her account.

What happened

Ms A took out the mortgage in question in 2007 as a remortgage of a property she already owned. A mortgage offer issued in July 2007 showed she was borrowing £333,000 on an interest only basis over a 24-year term. The interest rate was fixed at 5.57% until 30 September 2017, after which it would revert to Barclays' Base Rate plus 0.95% for the remainder of the mortgage term.

In 2010 Ms A took a further advance, with the mortgage offer for that being issued in July 2010. The offer showed she was borrowing a further £130,000 on an interest only basis over a term which would run for 21 years and 4 months. The interest rate was fixed at 3.59% until 30 April 2012, after which it would revert to Barclays' Base Rate plus 1.99 % for the remainder of the mortgage term.

From 2012 some payments were made late, and then from October 2014 payments stopped entirely (other than one payment which was made in October 2017 to both the main mortgage and the further advance).

Over the years Barclays was contacted by the freeholder, with the freeholder saying that Ms A wasn't paying the ground rent and/or service charge due for the property. The freeholder said it would commence forfeiture proceedings for the lease, and as that would impact Barclays' security it paid those sums to the freeholder, adding the amounts to the overall mortgage debt.

In late 2017 Barclays commenced litigation due to the level of arrears on the account. The income and outgoings information Ms A had provided showed no affordability for any monthly payment, which meant no arrangement or forbearance measures could be put in place. I understand the arrears were over £70,000 across the two accounts at that time.

At a hearing in August 2018 the court ordered Ms A give possession of the property to Barclays within 28 days. As Ms A remained in the property past that time Barclays asked the court for permission to enforce the order. That was granted, with notice being given to Ms A in July 2019 that the order would be enforced on 6 September 2019, meaning she would be evicted from the property on that day.

The eviction went ahead, and Ms A then made an application to the court for her to re-enter the property. That application was dismissed by the court on 18 September 2019. In the meantime Ms A made a complaint about the eviction, and also made a report to the police, saying she'd been assaulted by a third party involved in the eviction.

I understand Ms A re-entered the property in February 2020, with Barclays applying for a Warrant of Restitution soon after, which meant it would be able to evict Ms A without

needing to obtain a new possession order. That application was delayed due to Covid-19 and wasn't granted until March 2022.

That second eviction went ahead later in March 2022, and again Ms A made a complaint about the eviction, and also made a report to the police, saying she'd been assaulted by a third party involved in the eviction.

I understand Ms A re-entered the property again in April 2022, with Barclays applying for a further Warrant of Restitution soon after, with it being granted in June 2022.

Barclays applied to the court for a further eviction, and also applied for an injunction to prevent Ms A from re-entering the property again.

In the meantime Ms A had referred a complaint to our service about what had happened, and I issued a decision in December 2022. In that I said:

“Ms A has provided us with her very detailed testimony about some named and un-named third parties that were involved in the eviction process. I was sorry to read all that. Ms A has been through some incredibly difficult times and I can't imagine how hard things have been for her. But this complaint is about Barclays, and whilst those third parties were involved in the eviction process (that was due to the Barclays legal action), Barclays isn't liable for any acts or omissions by those third parties so I can't consider them as part of this complaint.

Those third parties also don't fall within the jurisdiction of this service, so we're unable to consider any complaint about them or their actions separately to this complaint. Ms A made police reports in respect of the third parties in both 2019 and 2022, and that is the best place for her statement of criminal activity to be considered. I'd like to reassure Ms A that I'm not downplaying or ignoring what she has told us about those third parties, but I simply don't have the power to consider any of those points in this complaint about Barclays.

Ms A has alleged various improprieties in how the court orders and warrants were obtained, saying – amongst others - that Barclays had no right to possession as her mortgage term doesn't end for a number of years, and that it didn't disclose her vulnerability and her statements of criminal acts by third parties to the court. Whilst I understand the points Ms A is making, she had the opportunity to raise these points herself with the courts as part of her defence in the proceedings. Barclays put its case to the courts as to why it should be given possession of – and why Ms A should be evicted from - the property (namely Ms A's mortgage arrears), if Ms A felt other things needed to be taken into account by the courts (such as her mortgage term, health, vulnerability and her statements about the actions of the third parties) then she needed to raise that as part of her defence.

I've no power to overturn, or interfere with, a court order. If Ms A felt the court order and eviction warrants were procedurally unfair then the court is the correct forum for those concerns to be raised, I simply can't get involved.

I understand legal action is ongoing, with Barclays looking to obtain a further warrant due to Ms A re-entering the property again and also an injunction to prevent any further re-entry after that. If Ms A feels there are any matters the court needs to consider to fairly decide those issues, then she should raise that with the court concerned at the time. As I've explained, we simply don't have the power to get involved in this matter as I can't interfere with the actions and orders of a court.

Finally, Ms A has said that Barclays hasn't responded to her April 2022 correspondence. I've reviewed that correspondence and, in the round, it is broadly the same points Ms A had previously raised and that Barclays (or its solicitor) had already responded to. That is, in Barclays' complaint response letters to Ms A in January and March 2018, and to Ms A's MP in November 2019, and Barclays' solicitor's letter to Ms A in September 2019. Barclays doesn't have to keep responding on the same points. The new points, mainly relating to the 2022 eviction, would be treated as the same as her points about the 2019 eviction – that is, Barclays wasn't responsible for any acts or omissions of those third parties involved. That was covered in Barclays' complaint response letter of October 2022.

Having considered everything, I'm satisfied the subject matter has been dealt with by the courts, is currently subject to court action (and has not been stayed or sisted to allow our consideration of the complaint) and/or would be better dealt with by the courts or elsewhere. For that reason, under our rules, I am dismissing this complaint without considering the merits of it."

In summary I found that the Financial Ombudsman Service will not be considering Ms A's complaint about Barclays for all the issues complained about up until that point.

Since then, a further eviction was booked for May 2023, but that didn't proceed. Barclays later obtained an injunction which meant Ms A wouldn't be able to return to the property, or come within 100 metres of the property, with effect from the date of the next eviction.

In October 2023 the court served notice of the new eviction date of 3 November 2023, with notices stuck to the door of the property to that effect. The eviction took place on 3 November 2023 and Barclays said the property was then secured, with two security guards placed outside the flat to prevent any attempted re-entry.

The property was placed in an auction, and an offer of £660,000 was accepted on 23 November 2023. The property sale completed on 20 December 2023.

In the meantime, Barclays arranged for the property to be cleared of any remaining possessions, and those were placed in storage on 22 November 2023 for a period of four weeks to allow Ms A time to arrange to collect them.

I understand that Ms A requested an urgent hearing with the court as she said the eviction was fraudulent and/or illegal. Barclays said that the application was dismissed by the court in mid-December 2023, and that the court issued a Civil Restraint Order against Ms A to prevent any further applications to the court without prior permission being granted.

This complaint was referred to our service in November 2023. Ms A said, in summary:

- Her door was broken down, which frightened her as a single vulnerable woman, suffering with various health conditions (which I won't detail here to protect her privacy, albeit I've taken into account everything she has said and provided about those).
- An unidentified third party was verbally abusive, and then physically attacked her (again, I won't go into detail here), something she later reported to the police. She said that renders the eviction null and void as it was achieved through violence and criminal acts, and her property should be treated as a crime scene. She said this was a terror attack with death threats shouted at her.
- Her property was desecrated and defiled when (and after) she was evicted in November 2023, with heinous acts that directly affect the religious sentiments of all who practice her religion.

- An incriminating email was dropped on her patio right before the eviction, with Ms A providing a copy of that to our service. The document Ms A has provided purports to be from the management company of the block of flats where Ms A's property was located to Barclays' solicitors. The text says:

"[Barclays' solicitor], the idea was to kill her [Ms A] in March 2022, as discussed now we need to try and eliminate her on the next round.

[Barclays' solicitor] will give the witness statement to a civil court and our man will get the warrant from the same civil court, then we attack her [Mrs A] as planned and eliminate her.

Need to keep very silent to the cops and court about the [health concern], etc ... we just say we don't know anything ...

Thank you for your email."

- Barclays misquoted a judge on oath on two separate occasions under a false statement of truth dated 12 November 2023, as well as committing other acts of perjury and fraud.
- The eviction took place whilst she was awaiting a hearing date for her application to oppose the eviction.
- Barclays has deprived her of her post and medication, and has continued to keep the goods that it stole from her property. She says the fixtures, fittings and movable assets in the property legally belonged to a relative.
- One of the judges was dishonest and biased.
- She'd given Barclays and others a deadline to provide her with the details of the third party who had broken down her door on 3 November 2023, but that information hadn't been provided.
- Ms A also reiterated her complaints about what had happened previously that had formed part of her complaint I decided in December 2022.

Our Investigator said we don't look at the same complaint twice, so we wouldn't look again at the issues that were covered in my decision of December 2022. He also said that, as I had explained in my previous decision, we don't consider matters that have already been decided by a court, and we can't consider the actions of third parties as they don't fall under our jurisdiction. He said that meant the only part of Ms A's complaint he would be considering was whether Ms A was treated fairly in respect of retrieving the belongings that she'd left in the property. He said Ms A was given a clear explanation of what she needed to do if she wanted to collect her belongings and so he didn't think Barclays (or its solicitors) had done anything wrong.

Ms A responded reiterating the complaint points she'd raised, and also saying there were inaccuracies in our Investigator's assessment.

As an agreement couldn't be reached the case was passed to me to decide.

What I've decided – and why

Before I can decide the underlying merits of Ms A's complaint, I first need to decide which parts of the complaint we should consider.

As I explained in my decision I issued in December 2022, the Financial Ombudsman Service operates under a set of rules laid down by Parliament under the Financial Services and Markets Act 2000 which are known as DISP. These rules set out the scope of our powers, and DISP 3.3 sets out the reasons why we might decide to dismiss a complaint without consideration of its merits.

DISP 3.3.4A says:

“The Ombudsman may dismiss a complaint referred to the Financial Ombudsman Service on or after 9 July 2015 without considering its merits if the Ombudsman considers that:

[...]

- (3) the subject matter of the complaint has been the subject of court proceedings where there has been a decision on the merits; or
- (4) the subject matter of the complaint is the subject of current court proceedings, unless proceedings are stayed or sisted (by agreement of all parties, or order of the court) so that the matter may be considered by the Financial Ombudsman Service; or
- (5) dealing with such a type of complaint would otherwise seriously impair the effective operation of the Financial Ombudsman Service.”

DISP 3.3.4B explains:

“Examples of a type of complaint that would otherwise seriously impair the effective operation of the Financial Ombudsman Service may include:

- (1) where it would be more suitable for the complaint to be dealt with by a court or a comparable ADR entity;

[...]

- (3) where the subject matter of the complaint has previously been considered or excluded under the Financial Ombudsman Service (unless material new evidence which the Ombudsman considers likely to affect the outcome has subsequently become available to the complainant).’

I’ve considered everything that’s been said and provided and having done so I’m satisfied that part of the substance of this complaint is the same as the one I issued a decision on in December 2022, and I’m satisfied that no material new evidence has been put forward which I consider likely to have affected the outcome of that complaint.

We won’t look at a complaint about the same issue if we’ve previously considered or excluded a complaint about it. That’s because, at some point, there has to be a conclusion; if we were to routinely revisit cases complaints could run on and on. In my view, this would not be in keeping with our statutory objective to resolve complaints with a minimum of formality. It also isn’t an effective use of our resource to enter into further correspondence about issues that have previously been excluded and would undermine confidence in our process thus affecting the effective operation of our service.

For that reason I won’t be making any further comment on what happened up to and including December 2022 as I’m satisfied that complaint shouldn’t be considered by this service as I excluded the same issues in December 2022.

I also won't be deciding any parts of Ms A's complaint that relates to any third parties and their actions, those about the legal process, and allegations of perjury and fraud by Barclays in relation to that legal process. To explain why this is I can only reiterate what I said in my December 2022 decision about similar complaints Ms A had made about the events before that date. Whilst Ms A has now also made complaints about events after that date, the same reasons stand for why I won't be considering those points.

I thank Ms A for her testimony about the third parties that were involved in the eviction process, and I was sorry to read everything she said. I've a great deal of sympathy for everything she is, and has, gone through. But, as I explained in my previous decision, we can only consider a complaint about Barclays, and Barclays isn't liable for any acts or omissions by those third parties so I can't consider them as part of this complaint.

Those third parties also don't fall within the jurisdiction of this service, so we're unable to consider any complaint about them or their actions separately to this complaint. Ms A made police reports in respect of the third parties in 2023, and that is the best place for her statement of criminal activity to be considered. I'd like to reassure Ms A that I'm not downplaying or ignoring what she has told us about those third parties, but I simply don't have the power to consider any of those points in this complaint about Barclays.

Ms A has alleged various improprieties in how the court orders and warrants were obtained, saying – amongst others - that Barclays committed fraud and perjury in its witness statements, the eviction took place whilst she was awaiting a hearing date, and a judge was dishonest and biased. Whilst I understand the points Ms A is making, she had the opportunity to raise these points herself with the court as part of her defence in the proceedings, and in any counter proceedings. Barclays put its case to the court as to why it should be given possession of – and why Ms A should be evicted from - the property (namely Ms A's mortgage arrears), if Ms A felt other things needed to be taken into account by the court then she needed to raise that with the court herself.

Ms A has said:

“... Barclays Bank fraudulently stated that the [...] bank had changed the locks of my front door. For which kindly see the proof of service of this witness statement dated 12th November 2023 by the fraudulent lawyer [Barclays' solicitor] on behalf of Barclays Bank enclosed with this important email. Also see the picture of the Metal Door put at my residence after the entire door was completely broken down by the deadly weapon of a sledgehammer on 3rd November 2023 and remains a crime scene. This is DEFINITELY NOT a case where locks were simply changed by the Bank as already fraudulently stated ON OATH whilst committing Blatant Perjury by Barclays Bank in court on 15th December 2023 in Direct Response to my Urgent Injunction dated 15th November 2023 and which was heard in court behind my back on 15th December 2023. Therefore, I have now by way of this email and my full letter to you already pointed out another fraudulent statement written to your offices where Barclays Bank have already committed Blatant Perjury in court. The evidence has since been provided to the Police and other investigating agencies.”

The court granted possession of the property to Barclays, with an eviction warrant enacted on 3 November 2023. Whether the third party changed the locks or broke down the door doesn't change things, nor does the status of the third party (that is, whether they are a private limited company or not) as the third party was empowered to gain access to the property to carry out the eviction. Ms A says Barclays committed perjury by saying the locks were changed, and that she has reported that to the police and other investigating agencies. That seems to be the right forum for her to raise those concerns as they aren't something we would deal with as part of this complaint as they form part of the legal process that we

wouldn't consider.

I've no power to overturn, or interfere with, a court order. If Ms A felt the court order, eviction warrant and her November 2023 application for an injunction were procedurally unfair then the court is the correct forum for those concerns to be raised, I simply can't get involved.

I understand the court granted an injunction to prevent Ms A re-entering the property, and Barclays has said that the court dismissed Ms A's application to overturn the eviction in December 2023, also issuing a Civil Restraint Order against Ms A to prevent any further applications to the court without prior permission being granted. It seems, from this, that Ms A exhausted the court process and the property was sold in possession on 20 December 2023.

Having considered everything, I'm satisfied the subject matter of the complaint relating to the court process since December 2022 has likely been dealt with by the courts and/or would be better dealt with by the courts or elsewhere. I'm also satisfied that I can't consider the actions of any third parties in this complaint against Barclays for the reasons explained.

For that reason, under our rules, I am dismissing this part of the complaint without considering the merits of it.

That just leaves the issue of the furnishings and other belongings that remained in the property when Ms A was evicted on 3 November 2023.

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

Ms A has said Barclays kept the items it stole from the property when it was cleared post-eviction. She's also said the items belonged to a relative rather than her.

Ms A has known that Barclays had a possession order for many years, and she had previously been evicted twice. On this occasion Barclays obtained an injunction to prevent Ms A re-entering the property, and she was given notice a few weeks prior to the eviction taking place of the date and what would happen.

I'm satisfied Ms A had plenty of notice that eviction was imminent, so she was on notice that she needed to leave the property, together with all her (and her relative's) possessions and belongings. Once the eviction had taken place, any items that remained until Ms A could collect them from the storage company were left there at her own risk.

On 22 November 2023 Barclays' solicitor sent an email to Ms A to explain that the remaining items (other than a sofa and built-in storage) had been removed into safe storage ready for her and/or her relative to collect. It said if Ms A (and/or her relative) wanted to arrange collection of the sofa and/or built-in storage then they should contact the solicitor directly, and they should contact the storage company to arrange collection of the other items. The letter said they had 28 days (so until 20 December 2023) to arrange collection of the belongings, and anything that hadn't been collected by that date would be destroyed.

The storage company sent a follow up email to Ms A on 7 December 2023 following a phone conversation it had with Ms A. In that email it explained an appointment would need to be booked, and it set out the cost of each visit (which it said would be added to the mortgage debt), for Ms A to collect any items. It gave the details of how to book an appointment, and reminded Ms A that the items would only remain in storage until 20 December 2023.

The property needed to be cleared and cleaned so it could be sold, so this wasn't the case of the items being stolen (or evidence being destroyed), instead the items were relocated to a storage facility so Ms A could collect them (in the four-week period allowed) and the property was cleaned and tidied ready for sale. I wouldn't expect the items to be stored indefinitely as there are costs to that, and four weeks seems a more than adequate time frame for Ms A to arrange collection of the items, even if she simply arranged for someone to move them to another storage facility that she had organised herself.

I also wouldn't expect the property to be left untidied and uncleaned when being marketed for sale. If the police had asked the property to be left 'as is' then I've no reason to believe that wouldn't have happened, but they didn't and so the property was cleared, tidied and cleaned as normal which is exactly as I would expect for any property that has been taken into possession. For a property to be marketed, it should be presented in the best possible way it can be in the circumstances, and that wouldn't be with Ms A's (and/or her relative's) possessions remaining where she'd left them.

Having considered everything I don't uphold this part of Ms A's complaint.

Finally, Ms A has said that Barclays hasn't provided her with the details of one of the third parties, but I can't say Barclays was wrong not to provide the personal details of a third party directly to Ms A. If this information is required by the police for its investigation then the police can approach Barclays directly for the information, and if it is information that Barclays doesn't hold then it can signpost the police to the right place to obtain the information.

My final decision

For the reasons set out above, my decision is that:

- The Financial Ombudsman Service will not be considering any part of Ms A's complaint about Barclays except for that relating to what happened with the furnishings and other belongings that remained in the property when Ms A was evicted on 3 November 2023.
- I don't uphold the complaint about what happened with the furnishings and other belongings that remained in the property when Ms A was evicted on 3 November 2023.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 19 September 2024.

Julia Meadows
Ombudsman