

The complaint

Mr and Mrs G have complained about a mortgage current account (“MCA”) reserve they hold with Barclays Bank UK PLC. They say the MCA reserve limit has been increased over the term of the mortgage with no affordability checks being carried out.

What happened

This mortgage was taken out in 2008. The original mortgage offer shows a loan amount of around £415,000 (plus fees), of which £95,000 was to be held on an interest only basis, with the rest on repayment. The term was shown as 13 years and 7 months.

As part of the mortgage an MCA was opened, and the offer said that had a reserve limit (in other words, a secured overdraft limit) of £66,960.

Various letters were issued over the years. Some of which being in;

- July 2015 about the mortgage term coming to an end, and in that it said the MCA reserve debt was around £113,000,
- April 2016 in which Barclays said it would be reducing the MCA reserve limit from £160,810 to £149,900, and
- April 2017 in which Barclays said it would be reducing the MCA reserve limit from £170,070 to £163,200.

Both the April 2016 and April 2017 letters said:

Rebalancing – how does it work?

Your mortgage currently has a rebalancing feature. This means that your Mortgage Reserve limit automatically goes up as your main mortgage balance reduces either through normal monthly payments or any voluntary overpayments or lump sum payments.

Rebalancing provides flexibility when managing your finances but any outstanding balance still has to be repaid at the same time as the mortgage. It is therefore important that you have a plan in place to repay any outstanding Mortgage Reserve balance on or before your mortgage is repaid.

Depending on your repayment plans you may find it easier to manage your finances by removing the rebalancing feature and keeping your Mortgage Reserve at the limit agreed.

If you do not require rebalancing on your Mortgage Reserve, please call us on [phone number] and we can remove it for you. The information on rebalancing in the enclosed leaflet may help you decide whether you would like this feature permanently removed.”

Both letters gave three options. The April 2016 letter gave the choices as:

1. "A limit of £149900 meets my / our current needs" with the answer to that being "You do not need to do anything" "The new limit will be automatically applied to your Mortgage Current Account on, or shortly after, 9 June 2016".
2. "I / we would like a limit lower than £149900 or would like the Reserve facility removed" with the answer to that being "Please call us on [phone number]" "Our specialist team can amend the limit for you".
3. "I / we would like a limit higher than £149900, but no more than £160810" with the answer to that being "Please call us on [phone number] before 9 June 2016" "Our specialist team can arrange this for you".

The April 2017 letter gave the choices as:

1. "A limit of £163200 meets my / our current needs" with the answer to that being "You do not need to do anything" "The new limit will be automatically applied to your Mortgage Current Account on, or shortly after, 16 June 2017".
2. "I / we would like a limit lower than £163200 or would like the Reserve facility removed" with the answer to that being "Please call us on [phone number]" "Our specialist team can amend the limit for you".
3. "I / we would like a limit higher than £163200, but no more than £170070" with the answer to that being "Please call us on [phone number] before 16 June 2017" "Our specialist team can arrange this for you".

In 2021 Mr and Mrs G complained to Barclays and then referred that complaint to our service.

An ombudsman colleague issued a decision about our jurisdiction in August 2022. She summarised the complaint as:

"Mr and Mrs G's complaint is about a mortgage current account (MCA) they have with Barclays Bank UK Plc. They believe the account was mis-sold as they didn't want it and it was not suitable for their needs. In addition, they have told us that Mr G was inappropriately told by his relationship manager in 2011 to use the MCA reserve to fund his business, as it was the cheapest way to borrow. They said that they only discovered shortly before making their complaint that the MCA reserve needs to be repaid at the same time as the mortgage. They feel that they were misinformed about using the MCA reserve."

And her decision was:

"My decision is that Mr and Mrs G's complaint about their MCA being mis-sold and the advice Mr G received to use the reserve funds for business purposes in 2011 fall outside our jurisdiction. The remaining issues Mr and Mrs G have raised, and which Barclays has had the opportunity to consider, fall within our jurisdiction and will now be considered by our investigator."

The investigator set out his thoughts on the remainder of the complaint, which was that Mr and Mrs G were unhappy with the support Barclays offered them during Covid. Whilst that complaint was ongoing Mr and Mrs G raised a new point in respect of the MCA reserve. The new point was that the reserve limit was increased over the life of the mortgage without any affordability checks being undertaken. That was set up as a new complaint, which is what I'm looking at here.

Our investigator said that we could only look at the reserve limit changes in the six years running up to the complaint point being raised as any earlier ones hadn't been complained about within the time limits set out in our rules. He also said we wouldn't look again at the points that had been considered (or excluded) under the previous complaint I've referred to above. He went on to consider the increases over the last six years and didn't uphold the complaint.

Mr and Mrs G didn't agree with our Investigator's assessment of their complaint and said they'd like an ombudsman to look at everything and they mentioned things that had been part of the previous complaint.

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

I issued a decision about our jurisdiction in October 2023. In that I said we wouldn't reconsider a complaint about the original sale of the MCA or the advice Mr G says he received to use the funds for business purposes, and I will only be considering the increases in the MCA reserve limit in the six years leading up to this complaint point being raised.

I understand Mr and Mrs G are unhappy about my decision about our jurisdiction but I'm satisfied I've not erred in my application of our rules, and so I won't be making any further comment about that or anything I've said we won't be considering. Instead I'll just be dealing with the part of the complaint I said we can decide.

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.

Whilst there was some reference to the MCA reserve limit increasing in previous correspondence, the first instance I can find of a complaint formally being raised about this point was when our Investigator did so with Barclays on 14 October 2022. Prior to that our Investigator had told Mr and Mrs G they needed to raise it as a separate complaint, but I've not been provided with any evidence that they did so. That means the six-year period I can consider here started on 14 October 2016.

As I can't consider what happened before October 2016, that means I can't consider what the original reserve limit was, or what was said about rebalancing at the time. In October 2016 the MCA reserve limit was £156,060 so that is the starting point of my considerations (I can't consider what happened before then to get it to that level). I understand the limit was £220,160 in October 2023, an increase of £64,100.

Whilst it is earlier than the period I'm able to consider for this complaint, I'll mention it here for completeness as it forms part of the background to explain what has happened. Barclays wrote to Mr and Mrs G in April 2016 to say it will be reducing the reserve limit unless Mr and Mrs G got in contact with it to discuss other options. Following that the limit was lowered in line with the letter. The same happened in 2017 and 2018, with a further decrease in 2020 and again in January 2021. Since January 2021 the reserve limit has remained the same.

Mr and Mrs G have made withdrawals from the MCA reserve, with the following transactions for the period I can consider showing in these monthly statements:

- December 2016 £5,000
- January 2017 £14,000
- February 2017 £3,000
- March 2017 £1,500
- July 2017 £2,000
- September 2017 £4,000
- October 2017 £1,000
- December 2017 £2,500
- December 2018 £1,500
- January 2019 £15,000
- March 2019 £3,000
- April 2020 £10,000

And in the period from October 2016 to April 2022 Mr and Mrs G made the following payments into the account:

- November 2016 £1,500
- December 2019 £750
- October 2019 £2,500

Then from May 2022 Mr and Mrs G started to make payments in of £250 a month.

I'm satisfied that by October 2016 Mr and Mrs G were aware how this account worked and that the limit would increase as the main mortgage account balance went down, without affordability checks being completed each time.

If Mr and Mrs G felt that wasn't the right thing for them then they didn't have to continue to use the account. They could have stopped withdrawing money and instead just made payments into it to reduce the balance. Instead, they withdrew a further £62,500, and paid in just £4,750 (up until April 2022).

Barclays' role is to administer the account, not to manage it on behalf of Mr and Mrs G, or police their spending. So if Mr and Mrs G hadn't wanted the MCA debt to increase, all they needed to do was to stop using it once it reached the limit they were happy with and then maintain the interest payments. There was no obligation on the part of Mr and Mrs G to continue to use the MCA reserve, and I can't hold Barclays responsible for the fact that they did so. Mr and Mrs G have had the benefit of the funds they withdrew and, in the period I'm able to consider, I'm satisfied they were aware of the interest they'd be paying on those funds and that they'd need to repay them at the end of the mortgage term.

Since at least February 2015 Barclays has been writing to Mr and Mrs G to say that if they wanted the rebalancing feature turned off then they just needed to make contact with Barclays and it could be done. That would have stopped the reserve limit from increasing further.

There was no regulatory requirement for Barclays to carry out affordability checks on an ongoing basis; that was one of the features of a flexible mortgage account like this (just as it was with other mortgage providers that offered similar products). Having reviewed the contact notes I've not seen any evidence to indicate that Mr and Mrs G made contact with Barclays to ask that it stop the reserve limit increases and had Mr and Mrs G done so I've no reason to believe that wouldn't have happened.

Whilst I've a great deal of sympathy for the situation Mr and Mrs G found themselves in, with the pandemic impacting Mr G's work and the mortgage term ending with a significant balance outstanding, I can't say Barclays did anything wrong here as the account operated as it was intended to and Barclays didn't have to carry out ongoing affordability checks.

Mr and Mrs G will need to discuss repayment of the MCA reserve with Barclays, as the balance is due in full, in line with the contractual terms. In this regard, I would remind Barclays that, where customers are in financial difficulty, the bank must treat them positively and sympathetically when considering repayment proposals. Furthermore, Mr and Mrs G need to provide full and open disclosure of their financial circumstances, in order that Barclays can give fair consideration to any offer of payment. But that's not something I can intervene in as part of this decision. Mr and Mrs G will need to discuss their payment proposals with Barclays. If they think the bank isn't treating them fairly in relation to their proposals, they may be able to bring a fresh complaint about that to the Financial Ombudsman Service at that time.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 27 December 2023.

Julia Meadows

Ombudsman