

## **complaint**

Mr and Mrs G have complained that Barclays Bank Plc has failed to provide evidence that their mortgage is valid. They are asking Barclays to redress all their grievances.

## **background**

Mr and Mrs G are customers of Barclays, having granted a mortgage to Barclays as security for a loan. In 2014 Mr and Mrs G wrote to Barclays demanding documents to prove there was a valid mortgage and raising various concerns about the nature of mortgage lending generally.

In the absence of a satisfactory response, Mr and Mrs G brought their complaint to us where it was considered by one of our adjudicators. He explained to Mr and Mrs G that arguments about the validity of a mortgage contract were best suited to a court. He noted Barclays had offered a goodwill gesture of £50, which he recommended Mr and Mrs G should accept.

Mr and Mrs G disagreed with the adjudicator's findings. Amongst other things they have requested a copy of the agreement signed by both parties to show that a legally-binding contract had existed. They also requested a copy of a Deed of Assignment to show who was assigned the debt, and the mortgage indemnity insurance showing Barclays as the sole beneficiary, along with evidence of the source of funds lent to them.

Mr and Mrs G said that in the absence of those documents they were "being restrained of their fundamental human right to pay arrears they do not owe" unless Barclays could show a prima facie case concerning the debt.

It now falls to me to issue a final decision on the complaint.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Mr and Mrs G have made very detailed submissions, but I'm not required to respond to each and every point they've made. No discourtesy is intended by this – it simply reflects the informal nature of the service we provide.

I'm very familiar with the documents put forward by Mr and Mrs G – including template letters and statements downloaded from the internet. I am fully aware of the wider issues Mr and Mrs G have raised. Their points concerning securitisation, powers of attorney, the nature of money and promissory notes are the same as those raised on a number of internet forums where there is discussion about the reasons why they believe mortgages are invalid. In support of their arguments Mr and Mrs G have cited various medieval and ancient charters or Acts, none of which, in my opinion, are of any relevance to the issues I am being asked to consider.

I can find no merit to Mr and Mrs G's argument that they do not have a valid mortgage. I also do not agree that there is only a promissory note and that no bank is able to lend any actual money. These arguments seem to me to have no basis in law, logic or common sense. As far as I am aware no claim in any UK court or tribunal has succeeded on the basis of the type of arguments raised by Mr and Mrs G.

But I have no power to decide whether a mortgage is void, invalid or unenforceable – only a court is able to do this. In this respect I see that Mr and Mrs G say in their statement dated 13 October 2014 that they have requested a "prerogative writ of mandamus". Mandamus (or mandatory order) is a High Court order, following a successful application for judicial review, directing a public body or official to perform a duty that it has failed to perform. Barclays is not a public body so I think it's unlikely a court would issue an order of mandamus against it.

Furthermore the issues Mr and Mrs G have raised about existence of the loan, the source of the money lent to them, securitisation, assignment and the banking industry generally fall outside the remit of the Financial Ombudsman Service. Those are matters that come within the regulatory framework of the Financial Conduct Authority, the Prudential Regulation Authority and ultimately the Bank of England.

It is up to a court to determine if there is some legal technicality that absolves Mr and Mrs G of any responsibility for repaying the money they borrowed from Barclays. My remit, pursuant to the powers granted to the Financial Ombudsman Service by the Financial Services and Markets Act 2000, is to decide what's fair and reasonable in all the circumstances. I am satisfied that it is fair and reasonable for Mr and Mrs G to repay the money they borrowed from Barclays and that Barclays is entitled to receive this money.

If Mr and Mrs G decide to pursue their complaint through the courts, I would urge them to take legal advice from a qualified solicitor rather than relying on advice obtained from the internet. If Mr and Mrs G are in financial difficulty and unable to pay their mortgage, I would suggest they contact a legitimate debt advisory service, such as StepChange or National Debtline. We can provide contact details for those organisations, should Mr and Mrs G request them.

**my final decision**

My final decision is that I do not uphold this complaint. Mr and Mrs G are free to accept the £50 offered by Barclays Bank Plc as a goodwill gesture in settlement of their complaint, should they wish to do so. Because I'm satisfied no error has been made, I am not ordering Barclays Bank Plc to pay this sum by way of compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs G to accept or reject my decision before 25 March 2015.

Jan O'Leary  
**ombudsman**