

The complaint

Mr C complains that Barclays Bank UK PLC failed to provide him with full information when he invested in a corporate bond issue through its nominee service. He says that if he'd been made aware that he'd have no contract with the bond issuer – meaning he couldn't sue it in the event of a loss – he wouldn't have invested.

What happened

Mr C invested in the bond issue in question in 2016 and sold the investment the following year at a loss. He attempted to instigate legal proceedings against the bond issuer but discovered that he was unable to.

Mr C complained to Barclays, but it explained that as a nominee broker it held securities in trust, so while Mr C had been the beneficial owner of the bonds, Barclays would've been on the company register. It said this was the normal way in which a nominee service worked, and that it was explained in its terms.

Barclays said the terms also made clear that registration in the name of a nominee would mean that investors could lose incentives and shareholder benefits associated with their investments. Barclays went on to confirm that it was an execution-only broker and that it had been Mr C's responsibility to ensure he fully understood the consequences of using a nominee service.

The complaint was referred to this service, where our investigator reached broadly the same conclusion as Barclays. She noted that Mr C felt that Barclays' terms didn't meet the principles of the Financial Conduct Authority (FCA) for the provision of information, as they didn't make clear that he would lose legal rights. But she nevertheless felt the terms had been reasonably clear.

The investigator noted that Mr C felt that he had been misinformed by Barclays when he'd discussed the investment with a member of staff prior to investing. She said that if any calls became available that showed that Mr C had been given incorrect information her view might change.

Mr C did subsequently obtain some call recordings and highlighted that in one call to Barclays in February 2016, made prior to investing, he had specifically asked whether he would be able to sue the bond issuer. The member of staff had said that he didn't know. Mr C felt that the member of staff should've known and should've said that Mr C's legal rights would be restricted by using a nominee service. And if he had done so, Mr C wouldn't have invested and wouldn't have incurred a loss.

Despite this further information, the investigator remained of the view that the complaint should not be upheld. So, as no agreement could be reached, the matter's been referred to me to review.

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.

I can appreciate Mr C's disappointment with his investment and the fact that he was unable to take any action against the bond issuer. But, having looked closely at the evidence, I'm unable to conclude that Barclays did anything wrong in that respect.

It's clear that Mr C has strong feelings about what he considers to be failings on the part of Barclays. He's provided detailed submissions to support his complaint, which I've read and considered in their entirety. However, I trust that he won't take the fact that my findings focus on what I consider to be the central issues, and that they're expressed in less detail, as a discourtesy. The purpose of my decision is not to address every point raised in detail, but to set out my conclusions and reasons for reaching them.

There are two key questions to consider. Firstly, were Barclays' terms sufficiently clear about the service it was providing? And, secondly, was Mr C misled when he discussed the service prior to investing?

Having reviewed the terms, I think they set out the parameters of the service that Barclays was providing in relatively straightforward language, in line with the industry-standard type of information I would expect to see in terms of a financial service. I think they were clear on the nature of the relationship that was being created and drew reasonable attention to the fact that it may bring with it some potential disadvantages, so they were sufficiently detailed to put Mr C on notice of a potential issue. I consider that the terms were generally in line with the FCA Principles.

I accept that they didn't explicitly deal with the issue of legal rights and the potential for suing a bond issuer. But, on balance, I don't think it's reasonable to expect the terms to deal explicitly with each and every potential consequence of using a nominee service that might be encountered, particularly where the issue in question concerns the relationship between the investor and a third party, such as the bond issuer. The terms were intended to deal with the relationship between Mr C as Barclays' customer and Barclays as the service provider.

And, turning to the second question, if Mr C's decision to invest hinged on whether (or not) he would be able to sue the bond issuer, then I've not seen that he was prevented from finding a definitive answer on the issue.

I accept that he did ask the question of Barclays in the phone call of 4 February 2016. But the staff member he spoke to explained clearly that he didn't know the answer. That may have been frustrating for Mr C (although I note from listening to the call that he didn't sound particularly concerned that Barclays couldn't answer, neither did he stress that his decision was dependent on the information). But I don't think it was an unreasonable answer for the member of staff to give. Not all staff will know the answer to every question they might be asked. And importantly, the staff member suggested that Mr C take up his query with a lawyer or financial adviser.

So, even if Mr C felt the staff member should have known the answer, he was nevertheless aware that he hadn't been given the information he needed, so he could then have sought an answer elsewhere, as the Barclays' staff member suggested. Of course, if the information Barclays had provided had been incorrect – for instance, if the staff member had said that Mr C definitely would be able to sue the bond issuer – I would take a different view. But I think the response given to Mr C's question was a reasonable one, particularly given that this was an execution-only service and the query touched on legal issues, that it's unlikely the staff member would've been qualified to answer.

As noted, I understand how strongly Mr C feels about the matter. But, looking impartially at the situation as I'm required to do, I don't think I can fairly say that Barclays acted incorrectly

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 April 2021.

James Harris
Ombudsman