

The complaint

Mrs W complains that Barclays Bank UK PLC recorded offensive and derogatory information about her. As a result, she said that stopped her going to a branch of Barclays, so she was unable to deposit money to her account, which led to missed payments.

What happened

Mrs W had a bank account with Barclays. She said during a visit to a branch a member of Barclays' staff harassed, abused and bullied her – and that Barclays has discriminated against her because of her disability.

Mrs W made a subject access request (SAR) for the information Barclays held about her. She said Barclays has recorded that she was “behaving strangely”. As a result she said she was unable to go to the branch – and that meant that she wouldn't be able to put money in her account and that direct debits would go unpaid.

Mrs W complains that Barclays:

- Didn't deal with her complaint.
- Applied bank charges of over £100 that were a direct result of this matter – and which led to her overdraft being removed.
- Failed to apologise for the offensive and derogatory remarks it made about her.
- Didn't provide all of the CCTV footage as part of the SAR.

I issued a provisional decision. There were parts of the complaint I upheld, parts I did not uphold and parts that I could not look at. My findings were (and which form part of this decision):

Barclays comments

Barclays recorded that Mrs W “may have some issues as she is a regular customer in branch and they have been noticing different behaviours every time she visits”. The investigator asked Barclays for its comments on this. It said that it was genuinely concerned about Mrs W and was looking to help her.

Barclays hasn't provided a coherent explanation why it monitors its customers behaviour in such a way or that it has acted in line with its policies here. I understand that banks have a duty to look out for customers who are potentially vulnerable. But it's not clear how recording subjective remarks about a person's behaviour is going to help the bank provide assistance. I think the bank could have achieved its objective by handling this matter in a more sensitive way than it has.

I agree with Mrs W that saying that someone has “issues” is a pejorative term. There is also a background of a dispute between Mrs W and a member of staff at the bank. I’m not addressing that here as we’ve already made a decision on that complaint.

Overall, I don’t consider that it was fair and reasonable for Barclays to record the information it has. It should:

- *Apologise to Mrs W.*
- *Remove the information it has recorded – or if it can’t do so provide a clear note that this information is wrong on its systems.*
- *Pay Mrs W £250 for the distress caused to her by this matter. It is clear that she has been very upset by what happened. And I can understand that. Barclays has failed to take those concerns seriously – and there were delays in dealing with her complaint (I can look at that). I think £250 is a fair amount to reflect all those issues.*

Overdraft fees and charges and account closure

I can understand why Mrs W felt she was unable to visit her branch while this matter was ongoing. But it wouldn’t be reasonable for me to say that would mean that Barclays should effectively freeze her account. Mrs W could have mitigated her loss by making payments in other ways.

Barclays has now agreed to:

- *Refund any charges from 15 September 2019 – totalling £81.75 to be set off against the debt.*
- *Write off the remaining overdraft balance of £33.02.*
- *Remove the default recorded on her credit file.*

I think this is fair.

Things I can’t or won’t be considering

The complaint about the branch staff’s behaviour has already been considered by us in another complaint. Under our rules I can dismiss a complaint for a number of reasons, including where dealing with a complaint would impart the effective operation of our service. The rules go on to give as an example of this where the subject matter of a complaint has already been considered by us. I don’t consider we should look at that complaint again.

Barclays issued its final response to the complaint about the SAR on 13 November 2019. Mrs W had six months from the date of that letter to refer her complaint to us. But she did not do so until July 2020. That is more than six month after the date of the final response., Barclays hasn’t consented to us looking at that complaint and I’m satisfied there were no exceptional circumstances that prevented Mrs W referring the complaint to us in time.

The complaint about passing Mrs W’s debt to a third party regards events that happened after this complaint was referred to us. I must give Barclays the chance to address and resolve a complaint before I can consider it. And it wouldn’t be right for me to start an investigation into that point at this stage. So Mrs W should complain directly to Barclays if she has not done so already.

Neither Mrs W nor Barclays responded.

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.

As neither side has responded to my provisional decision, I see no reason to depart from the findings I reached in my provisional decision, set out above.

My final decision

I am dismissing without consideration of its merits the complaint about how Mrs W was treated in a branch as we have already considered that complaint.

I can't look at the complaint about the SAR as it has been brought outside the time limits set out in our rules.

I can't look at the complaint about Mrs W's details being passed to a third party as it was referred to us after we had begun considering other complaints from Mrs W – and it's not clear if Barclays had issued a final response or if eight weeks had passed since Mrs W complained to Barclays.

I can look at the other complaint points. My final decision is that Barclays Bank UK PLC should:

- Apologise to Mrs W in writing.
- Remove the information it has recorded on its systems referred to above – or if it can't do so provide a clear note that this information is wrong on its systems.
- Pay Mrs W £250 for the distress caused to her by this matter.
- Refund any charges from 15 September 2019 – totalling £81.75 to be set off against the debt.
- Write off the remaining overdraft balance of £33.02.
- Remove the default recorded on her credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 5 April 2022.

Ken Rose
Ombudsman