

The complaint

Mr R's representative, his daughter Miss R, complains on his behalf about the service provided by Barclays Bank UK PLC.

In short, Miss R is unhappy about the handling of her father's Smart Investor account.

What happened

In August 2020, Miss R was appointed as a Financial Deputy for her father, by the Court of Protection.

On 26 October 2020, Miss R visited a local branch of Barclays with a stamped copy of the Court of Protection Order (referred to as "the court order"), ID documents and details of Mr R's Smart Investor account. In due course her new position was registered, or so she thought, and she received the passcode to access Mr R's account.

On 9 November 2020, Miss R discovered that she hadn't been granted online access. Also, upon discovering a significant drop in the value of the investment, she asked for the shares to be sold. Barclays asked Miss R to provide Mr R's bank statement – which was with a third-party bank – because he didn't have an account with Barclays, which she duly provided.

On 25 January 2021, Miss R chased Barclays as the funds still hadn't appeared in Mr R's account. Miss R was told that Barclays hadn't received the bank statement she sent, even though it was returned to her, suggesting that what Barclays told her was incorrect.

On 28 January 2021, Miss R was told that the bank statement had been rejected because it didn't match its records. Miss R made clear that the address should match as Barclays had already been informed of the court order. Barclays later admitted that it had made an error in setting up the order correctly.

In due course Miss R complained to Barclays, but the acknowledgement was sent to Mr R's old address, even though she had pointed out that the old address was empty.

On 8 February 2021, Barclays confirmed that Mr R's address had been updated, it also asked for a copy of the previous (rejected) bank statement to see if it was possible to get the accounts linked up.

On 23 March 2021, Miss R tried to withdraw the money from the Smart Investor account but was unsuccessful, even though she was told that the accounts had linked up and there was no reason for money not to be released. Barclays said Mr R would receive the money by 26 March 2020.

In due course, Miss R referred the complaint to our service. I note the money was eventually paid into Mr R's account on 31 March 2021.

There's been much correspondence between Miss R and the investigator. Below I've set out a summary of this exchange.

One of our investigators considered the complaint but didn't think it should be upheld. In summary, she said:

- In short, Barclays accepts the following:
 - It hasn't provided a level of service that it would wish to provide.
 - It failed to register/update the court order.
 - It sent correspondence to Mr R's old address.
 - It failed to link Mr R's bank account.
 - It made errors in its correspondence – in particular, on 28 January 2021.
- Barclays' offer to; refund the fees charged (including £2.58 it had retained) whilst Miss R was trying to close Mr R's account; £200 for the distress and inconvenience caused; an additional £150 for the additional delays in releasing the (£691) funds; is broadly fair and reasonable.
- Whilst Miss R feels that the compensation should be increased to £500 – with £150 being paid directly to her in recognition of her experience – the investigator can't agree that a separate additional award should be paid to her.
- Whilst Miss R may have received £150 compensation from another business for the delays in setting up the court order, she is not a direct client of Barclays and therefore isn't entitled to any compensation. This complaint is made on behalf of her father.
- The compensation was all paid to Mr R's account as it was a verified account.
- Our service isn't the regulator therefore it isn't for us to tell Barclays how to run its business and who it should pay the compensation to.
- In this instance the offer made by Barclays is fair and reasonable.

Miss R disagreed with the investigator's view and asked for an ombudsman's decision. In short, she said:

- Barclays made its opening offer in August 2021, some four and a half months after she approached our service for assistance.
- Although she was told her complaint could take around four months to reach an investigator, the fact that she didn't hear back until after seven and a half months suggests that our service has intentionally allowed Barclays to play its hand and make a £350 offer, which has subsequently influenced our position to accept this as reasonable.
- She doesn't deem it a coincidence that Barclays made the offer a week after she threatened court action.
- She's not asking for separate compensation relating to her phone conversation with Barclays (on 28 January 2021) but much more broadly. None of the issues would've been raised in this complaint without her involvement in the case. And had her father not had a stroke resulting in brain damage, there'd be no need for her to be set up on the account.
- The compensation offered was based on the status of the complaint as of March 2021. But Barclays didn't respond within eight weeks, it provided her with referral rights, so, the amount of compensation should be higher.
- She can't be sure that the investigator has considered all her points.
- It's the first she's heard of why the money was paid into her father's account. Barclays used ambiguous language suggesting that the compensation was for her inconvenience but didn't make clear who it was for. Barclays is duty bound to be open and transparent but wasn't in this case.
- Our service and Barclays are happy to gloss over the fact that it took Barclays over

six months to respond to her complaint. Although Barclays mentions the pandemic, most companies had already adapted their processes. Barclays using this as an excuse shows just how it regards its customers.

- The investigator referred to 'Mr R' accepting/rejecting the decision knowing full well that he can't answer for himself. This comment is redundant and hurtful.
- As a "lay" deputy, she does the job because she must, in order to try and do the best for her father who isn't capable of managing his own financial affairs.

The investigator having considered the additional points wasn't persuaded to change her mind. In summary, she said:

- Miss R's role as "lay" deputy isn't an easy one, and she's aware that Miss R's faced many challenges in dealing with Mr R's complaint.
- Our service isn't the regulator therefore we don't have the power to punish a business.
- If a business can't investigate a complaint within eight weeks, the complaint can be referred to our service without a final response. That's why she was given referral rights.
- Our service has received around 60,000 more complaints than we envisaged, and this has overall meant complaints are taking longer to allocate and deal with.
- We're only able to consider this complaint from Miss R because it's made on behalf of her father.
- In this instance the complaint was listed in Mr R's name – even though he can't provide instructions – and that's why the investigator referred to Mr R, and why letters refer to 'his' right rather than anyone else's. She's sorry if this has caused Miss R upset.
- It's not in dispute that Barclays made numerous errors, including, but not limited to, the phone call on 28 January 2021.
- Normally, she'd expect a business to pay interest from the date of payment to the date of settlement, less any tax. However, in this case the interest payment would've been minimal and is more likely (than not) covered by the additional £150 paid.
- Miss R makes a valid point about Barclays not making clear who the compensation payment was for. But despite what Miss R says, the investigator is unable to say that Barclays should pay compensation to her.

Miss R feels that the issues regarding the delays still haven't been considered properly. Apart from the letters, sent from Barclays once a month, to say that Barclays was still considering the complaint, it failed to acknowledge the excessive delays. She's not persuaded that Barclays has taken account of her points.

Despite what the investigator says, she's not satisfied that the oldest cases are being dealt with first. In this instance she's still minded thinking that our service waited to see if Barclays would make an offer after the complaint was referred to our service.

Whilst the investigator mentioned our service receiving a lot more complaints, the complaints that she's seen don't mention the amount of time it has taken for the business to respond.

The above notwithstanding, she still feels that Barclays should've been clearer as to who should benefit from the compensation. She also feels that she should receive something for the disproportionate amount of time trying to resolve this complaint.

She's open for Barclays to pay additional compensation into her father's account on the basis that Barclays make clear who the money is for.

As no agreement has been reached, the matter has been passed to me for 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.

Having done so, I agree with the investigator's conclusion for much the same reasons. I'm going to uphold this complaint.

There's no dispute that Barclays made several errors in relation to Mr R's Smart Investor account, as set out above. But because Barclays has upheld the complaint the key issue for me to consider is redress and whether it's fair and reasonable in the circumstances.

On the face of the evidence and on balance, despite what Miss R says, I think the £350 compensation paid by Barclays, along with a refund of the fees paid since November 2020, is broadly fair and reasonable in the circumstances.

I'm upholding this complaint because the higher offer was made after the complaint was referred to our service.

Before I explain further why this is the case, I think it's important for me to note I very much recognise Miss R's strength of feeling about this matter. She has, on behalf of her father, provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Miss R and Barclays, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

I should make clear from the outset that whilst I've no doubt that Miss R has been caused distress and inconvenience by this whole process, and I'm under no illusion as to how important her role is in helping to sort out her father's financial affairs, I've still no power to ask Barclays to pay Miss R compensation.

As a Financial Deputy and representative of her father's complaint, I'm unable to ask the business to pay Miss R any compensation. Even if she had her own account with Barclays for example, as representative of her father's complaint she's not acting in a personal capacity, and therefore isn't entitled, so far as our service is concerned, to any compensation.

The rules set out in the 'Handbook' of the industry regulator, the Financial Conduct Authority, state that a complaint may be brought on behalf of an eligible complainant or a deceased person who would have been an eligible complainant. The former is the basis on which Miss R, as representative, has brought this complaint.

I appreciate Miss R says that without her this complaint wouldn't be made, which I accept. However, that doesn't make her an eligible complainant in her own right, regardless of her

status as Financial Deputy/representative. Therefore, she isn't personally entitled to an award for distress and inconvenience.

Having said that, whilst I can't award Miss R anything for distress and inconvenience a business can choose to make such an award to a representative – although doesn't have to do so. Based on what the business says, it seems that it has taken note of Miss R's inconvenience, in the payment to Mr R, its client, and this is partly why it increased the payment from £200 to £350. I note that Barclays also maintains that £350 compensation in respect of an investment worth £691 is generous.

In conclusion, for the reasons set out above, despite what Miss R says, I can't ask Barclays to pay her £150 compensation for distress and inconvenience caused and I think the £350 compensation paid to Mr R is broadly fair and reasonable in the circumstances.

I apologise for the time it has taken to deal with Mr R's complaint. But as the investigator explained, we've received a substantially higher number of complaints than expected and this has affected our decision queue. Our service hasn't deliberately waited for Barclays to make an offer so that we can just conclude that the offer is reasonable.

Resolving complaints is a dynamic process, and sometimes because of additional enquires or entrenched views, some older and more complex complaints can take longer to resolve. But this isn't of itself as reason why Barclays should pay Mr R any more compensation, or a separate sum to Miss R directly.

I appreciate that Miss R will be unhappy that I've reached the same conclusion as the investigator and that I haven't given her what she wants. Whilst I appreciate her frustration, I'm not persuaded to require Barclays to do anything other than pay Mr R £350 compensation.

Putting things right

Barclays Bank UK PLC should pay Mr R £350 compensation, plus refund all fees paid since November 2020, unless it has already done so.

My final decision

For the reasons set out above, I uphold this complaint.

Barclays Bank UK PLC should pay Mr R compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 May 2022.

Dara Islam
Ombudsman