

## **The complaint**

Ms W complains about delays caused by Barclays Bank UK PLC when her deputies (Mr B and Mrs W) (the Deputies) appointed by the Court of Protection, asked it to open an account for her.

## **What happened**

The Court of Protection appointed Mr B and Mrs W as deputies to make decisions on behalf of Ms W in relation to her property and affairs. The Deputies were appointed in May 2019.

The Deputies made an appointment to attend a branch of Barclays in January 2020. They say they took the relevant identification documents with them and completed the forms they were given.

One of the Deputies, Mrs W says that when she attended the branch she was asked to open an account, in her own name, before the application could proceed. She says she was told she needed to do this because she was not an existing Barclays' customer. The Deputies were told they would hear further in ten days' time, after the details had been processed by a central team. They say they heard nothing further.

Mrs W went to a branch of Barclays a few days later to make further enquiries. She says she was told there was a problem with the identification of Ms W. Following this the Deputies attended the branch again. On this occasion, they say they were told that the documentation hadn't been received by the central team. Barclays said it would phone them within two hours – but no call was received.

Because of the delays the Deputies decided to open the Deputyship account with a different bank. The Deputies say Ms W's estate has incurred additional and unnecessary professional fees of £1,542.48. They complained to Barclays.

Barclays investigated the complaint. It agreed there'd been delays but it said the Deputies hadn't presented the correct identification and verification documentation when they attended at the branch. That was why they'd asked Mrs W to open an account, using its online channel, in her own name before proceeding. It had applied for a dispensation but that had been declined. The Deputies said the account would be used to receive benefit money and so a benefit letter would be required. It offered £75 by way of apology for the delays.

The Deputies did not accept what Barclays said. They complained to our service. Our investigator looked into the complaint. He didn't think it was fair and reasonable to require Barclays to cover professional fees for a service which had been provided to Ms W in a personal capacity. He noted that Barclays had admitted there were delays and had offered £75 by way of apology. He didn't think it should have to do anything more.

The Deputies didn't agree. They said that our investigator had failed to understand the position of a Deputy and the nature of the dispute. The Deputies stood in the shoes of

Ms W and it was her loss and inconvenience which required compensation. The Deputies also said that Barclays had failed to explain why it had given them incorrect information on two occasions.

Because Ms W's Deputies didn't agree, the complaint was passed to me to decide. I issued a provisional decision in which I said:

***What I've provisionally 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.*

***The identification and address verification documents***

*I've looked at the information on Barclays' website. There is a webpage entitled "How do I open an account if I've been appointed as a Deputy by the Court of Protection." There is then a link to a page which gives further information about setting up third party access. There are several different types of third-party access – including Court of Protection Order and Appointeeship. Each of these has different requirements.*

*For a Court of Protection Order, only the appointed representatives need to attend the branch. They need to bring the Order with them and they need to bring ID and proof of address documentation. Barclays' procedures also make clear that for a Court of Protection Order the donor (in this case Ms W) doesn't need to provide ID or address verification, provided that the Order has been produced.*

*Acceptable forms of documentation for the Deputies is listed on the webpage.*

*The Deputies presented the Court of Protection Order to Barclays and the staff member tried to open the account using the relevant procedures. But, she was unable to open the account. She says the Deputies didn't have sufficient ID documents to enable her to open profiles for them. I'll comment on that further below.*

*In order to try to get around this the staff member says she asked Mrs W to open an account in her own name using an online system. The online system used a process to electronically verify the applicant. The staff member says she tried to import the information from the online application into the Deputyship application - but the system kept generating errors. She contacted a central team and asked for a dispensation to allow the account opening to proceed.*

*I've looked at the response to the request for dispensation. That response asked the staff member to "follow the appointeeship process to open an account with a court of protection order." It then indicated that the "client" would have to provide ID and verification documents and "the customer" will have one or more benefits letters. If the "beneficiary" is not present then a BF57 would be required. The response also said that the Deputies could request documentation for*

*"the customer from DWP, GP. Care home letter can be used as address verification."*

*Having considered this information, it appears that the response confused an Appointeeship with a Deputyship. An Appointeeship is where someone has been appointed through the DWP to manage benefits. That didn't apply here. So, I'm*

satisfied, on balance, Barclays didn't follow its own procedures when it said there was a requirement to get ID and address verification documents for Ms W.

Identification and Address Verification of the Deputies

Barclays says the Deputies didn't have sufficient ID and address verification with them when they attended the branch in January 2020. Barclays hasn't been able to say what documentation was provided or why it wasn't suitable. It says it no longer has records to show this.

I asked the Deputies to tell us what ID and address verification they had provided. They responded to say:

*"I believe Mrs W produced a copy of her passport and utility bill. I (Mr B) did not have to produce any ID as an existing customer."*

*Having considered this response, I cannot be certain what documentation was provided. If Mrs W had brought her passport and utility bill, that would've been satisfactory for the purposes of the procedures. So, it is unclear to me why Barclays didn't find this acceptable and why it asked her to open a new account. The new account was opened and she got the documentation for this the following day.*

*I've noted that at the time, there didn't appear to be any issues raised about ID or address verification for Mr B. And, I've noted when Mrs W visited the branch on the second occasion, she was told that the problem was with identification for Ms W – she wasn't told there was any problem with ID and address verification of the Deputies.*

*Having thought about what happened, I'm persuaded that if Barclays was able to satisfy itself about Mrs W's ID and address – so that it was able to open a new account for her in her own name – it shouldn't have required anything further from her in order to open the Deputyship Account. And for that reason, I don't think it acted fairly or reasonably when it refused the dispensation sought and delayed opening the account.*

**What I've provisionally decided needs to be done to put things right**

*As a result of what happened, the Deputies decided not to proceed with the Barclays' account and instead opened an account with another bank.*

*It is the case that when considering a complaint of this nature our service can only award compensation to an eligible complainant. That is defined in the Financial Conduct Authority (FCA) Handbook in the DISP rules. These say that the eligible complainant here is Ms W. So, I can look at any financial loss, distress or inconvenience Ms W herself suffered as a result of what happened.*

*Ms W is unable to make decisions for herself in relation to her property and affairs. That's why the Court of Protection appointed Mrs W and Mr B as her Deputies. The Order appointing the Deputies makes clear that Mrs W is entitled to be reimbursed for her reasonable expenses and Mr B is entitled to receive fixed costs for the general management of Ms W's affairs. The fixed costs allowable are set out in a Practice Direction from the Court of Protection issued in December 2017*

*Mr B says that the costs of the application to Barclays were wasted costs and he says Ms W is entitled to receive full reimbursement for these fees. The fees are stated to be £1542.48. Ms W paid these fees on 6 March 2020.*

*I've thought about what Mr B has said here. It is the case that the Deputies decided to abandon the application process because of the delays and instead they applied for an account elsewhere. That was their own decision. But, having considered the matter, I can understand why they chose to do that. They'd waited over six weeks and no progress had been made. So, in these circumstances, I've decided it is fair and reasonable to require Barclays to reimburse Ms W for the wasted costs.*

*I've examined the invoice for these fees and I can see that it includes payment for an attendance in connection with opening the account with another bank. I think any fees attributable to opening an account with another bank cannot properly be included as "wasted costs." And, I don't think it would be fair or reasonable to require Barclays to compensate Ms W for those fees. So, I've provisionally decided that Barclays should be required to pay part only of this invoice.*

*I think the sum of £1301.28 is fair and reasonable. It includes a reduction of just over £200 (plus VAT) from the original invoice – which is reflective of the time charged to cover the costs of opening the new account with a different bank. Barclays should pay Ms W this amount (£1301.28) together with 8% simple interest from the date when the invoice was paid (6 March 2020) to the date of settlement.*

*I've also considered whether Ms W experienced any inconvenience or distress here. Her Deputies weren't able to open an account in a timely manner to manage her affairs. I think that would've caused her some inconvenience. Barclays has offered to pay her £75 by way of apology for the delays caused. I think Barclays should be required to increase this amount to £100 as compensation for the inconvenience Ms W experienced here.*

### **My provisional decision**

*For the reasons given above, my provisional decision is that I intend to uphold this complaint about Barclays Bank UK PLC.*

*I intend to require it to take the following actions:*

- *Barclays Bank UK PLC should reimburse £1301.28 to Ms W together with 8%\* simple interest from 6 March 2020 to the date of settlement.*
- *Pay Ms W £100 by way of compensation for the inconvenience she experienced when Barclays Bank UK PLC delayed the opening of a Deputyship account for her.*

The Deputies for Ms W responded to my provisional decision. They said they accepted the provisional decision.

Barclays also responded to my provisional decision. It said it agreed with the provisional decision.

So, I now have to make a final decision.

### **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've noted that the Deputies for Ms W and Barclays have accepted my provisional decision. In these circumstances, I have no reason to change my view about how this complaint should be resolved. So, for the reasons set out in my provisional decision and above, I've decided to uphold this complaint.

### **My final decision**

For the reasons given above I uphold this complaint about Barclays Bank UK PLC.

I now require it to take the following actions:

- Barclays Bank UK PLC should reimburse £1,301.28 to Ms W together with 8%\* simple interest from 6 March 2020 to the date of settlement.
- Pay Ms W £100 by way of compensation for the inconvenience she experienced when Barclays Bank UK PLC delayed the opening of a Deputyship account for her.

\* If Barclays Bank UK PLC considers that it's required by HM Revenue & Customs to take off income tax from any interest due to Ms W, it should tell her how much it's taken off. It should also give Ms W a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 9 June 2022.

Irene Martin  
**Ombudsman**