

The complaint

Mr S complains about information he received from Barclays Bank UK PLC ("Barclays") concerning a rights issue.

He has complained Barclays didn't sell his rights and so allowed them to lapse without value. He is also unhappy he received too many letters, too late, causing confusion.

What happened

Barclays sent Mr S a large number of letters with notice of the rights issue. Notice was also made available to him online.

The notice provided by Barclays said Mr S's options were either to take no action and let the entitlements lapse or to take up the entitlements in which case he had to have enough in his account to cover the cost.

What it said also included that the rights were renounceable, and gave dates for the trading period, and said selling some rights to fund the exercise of others was best done by phone.

Mr S says he expected to receive any premium attached to the rights when they lapsed, which he says is normal practice, including for Barclays, so he took no action but received no payment. He says he did receive payment for an identical holding he held elsewhere.

Barclays says it couldn't sell Mr S's rights without his permission and it wasn't its process to sell rights without instructions. In this case the default option was for the rights to lapse, which they did. Barclays says it didn't mislead Mr S and as an execution-only platform its service might not be similar to his other broker. It says it outlined the terms of the action, it was for Mr S to act on this and it was made clear that if he didn't act the rights would lapse.

But Barclays has accepted it sent Mr S too many letters in error and has said it would pay £50 to his bank account for this inconvenience. Mr S says this hasn't been paid.

Our investigator thought Barclays had acted correctly. Mr S disagreed and referred to other rights issues handled by Barclays for which he says he did receive a premium when the rights lapsed without him taking any action. Our investigator explained that in the particular example of which Mr S gave detail, the fact there would be a premium paid for lapsed rights was apparent in the public announcement for the rights issue. In contrast, the public announcement for the rights issue Mr S's complaint is about says shareholders taking no action would receive no compensation for expired rights. It said:

"Subscription rights that are not exercised shall automatically lapse at the end of the subscription period and, therefore, shareholders who take no action will not receive compensation for any unused or expired subscription rights and will be diluted."

Mr S still didn't agree and thought crucial information was left out by Barclays not making clear the rights issue was different to the earlier example he'd given. Barclays says Mr S's examples are irrelevant as all rights issues or corporate events are different and the

outcomes, including whether customers receive payment for lapsed rights, are determined by and vary with the company taking the action in each case.

I wrote to Mr S and Barclays about the complaint. I said, in brief:

- The notice issued by the company about the corporate action included prominent warnings that those taking no action would receive no compensation for any unused or expired rights and that the lapsed rights would be of no value. The absence of compensation for lapsed rights was unusual and noteworthy enough to be highlighted on the company's notice. Usually the market value of lapsed rights is realised and paid.
- Barclays' arguably ought to have given Mr S clear information so he would know lapsed rights would lapse without value. Its notification didn't do this. It explained rights would lapse but not that they would lapse without value.
- If clearer information would've led to Mr S selling his rights, his loss could be calculated by reference to the £300 he got for an identical holding sold by another broker, less the phone dealing costs he would've incurred at Barclays. A payment for the trouble caused to Mr S might also be due.

Mr S responded to say, in brief summary, that any redress should deduct online rather than phone dealing charges as he traded online which is much cheaper than by phone. Also he said he hadn't yet been paid the £50 Barclays had originally said it would pay him. Barclays also responded. It said, in brief summary:

- While the other broker sold the lapsed rights, as an execution-only broker this isn't something Barclays would do without a specific client instruction. It had never done this in the past and doing this isn't part of its service.
- The notice it sent was based on information it received and went through various levels of sign-off. The wording is clear and doesn't say it will sell the rights or take any other action with them other than for Mr S to exercise them. The letter sent to Mr S details exactly how he can sell his rights or how to contact Barclays to do so. In summary, it processed the corporate action in line with the details given by the issuer and hasn't misled Mr S in any way about what action Barclays would take.
- Its platform is execution-only. Mr S is responsible for managing his portfolio and he should've conducted his own research.
- Rights that lapse are sometimes bought by an underwriter, which might result in a payment to the consumer, but this process wasn't applicable to this corporate action.
- The information about rights lapsing and there being no compensation for unused or expired rights, is in the body of the notice issued by the company - not in any headers.
- If Mr S were expecting a payment like he said, he might've contacted Barclays to ask why there was no mention of this in its notification - but he didn't make any such contact.
- Mr S appears to have wrongly assumed Barclays would sell the rights without instruction, value or valueless - so if Barclays had told him that rights would lapse with nil value, it wouldn't have changed anything.

As the complaint couldn't be resolved informally it has been passed to me to decide.

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've decided to uphold Mr S's complaint. I'll explain why.

Mr S says Barclays ought to have sold his rights for him when he didn't exercise them. But I'm not persuaded this was part of the service Barclays was offering. I've not seen anything to suggest that Barclays promised or promises to do this. Given also that this would likely involve Barclays in extra costs, I don't think it was unfair for Barclays not to do this.

That said, on balance I conclude that Barclays' obligation to treat Mr S fairly meant it ought to have mentioned to him that lapsed rights would lapse without value, bearing in mind that it knew any value of Mr S's rights would be lost unless he took action and it wasn't going to take action itself to secure that value for him.

I say this bearing in mind it is common ground that rights that aren't exercised, or 'lapsed rights', will sometimes be sold (although not usually by the broker) with a payment being made to the investor if the rights have enough value. Barclays says this happens sometimes rather than usually, but on balance I don't think that makes very much difference here.

Also I bear in mind that the fact that the lapsed rights would here lapse without value, without compensation for Mr S, was known by Barclays from the start from the notice given by the company.

The fact the rights would lapse without value could, from what I've seen, also have been inferred from the nature of the rights issue itself, given the territorial law governing it. But despite this being implicit, it was still explicitly mentioned in the company announcement. In my view this underlines that this fact was not only relevant for Mr S but also noteworthy for an investor like him and for the intended audience of that company announcement.

Also, putting aside the good reasons there were for passing on this information to Mr S, Barclays to my mind hasn't given any good reason why this point wasn't passed on.

I agree it was the body of the company announcement, rather than a heading, that explained the point. It was made with a few others in the '*details*' section, as Barclays says. Prominent references to it in headings, which I'd seen, were in a separate shareholder guide on a website of the company, to which Barclays gave us a link with its file, which was produced for those with holdings held in a different way to Mr S.

But this doesn't change my conclusion. I don't think Barclays needed to give the same prominence to this point as that shareholder guide gave. But what Barclays gave Mr S didn't refer to the point at all and I think it ought to have done for the reasons I've given.

I don't overlook that further and full details of the rights issue would have had to be obtained by Mr S's own research, given the execution-only service that Barclays was offering. But having chosen to alert him to certain details of the rights issue, given Barclays' duty to treat Mr S fairly I think Barclays ought to have mentioned that he'd receive no compensation if he did nothing, given the relevance of this point to the decision Barclays was alerting him to and inviting him to make. I say this in light of all I've said above.

If Mr S had been told he would receive no value for his rights if he did nothing, I think it likely he would've acted and sold his rights. I say this because I'm persuaded his reason for not doing so was that he didn't realise he wouldn't receive value for them otherwise. I don't

agree that his not asking for more information indicates that he wasn't expecting a payment. In my view his expectations are evidenced in what he said to Barclays about this.

Also Mr S has since explained his experience and expectations, by referring to other rights issues he has been involved in. His expectations may have been based on a mistaken assumption that it was Barclays as broker that sold his unexercised rights, but I don't doubt that he expected he would receive a payment for his lapsed rights here.

In arriving at this view I'd mention that a crucial point here is that Mr S raised his concern with Barclays at the point in time that he did and not at a later time. This is because to reach my view I have to be persuaded that Mr S was paying sufficient attention to the rights issue, and also had expectations of a particular kind (as described above), such that if different information had been given by Barclays in its notification this would've changed what Mr S did. This is the conclusion I reach here, and I do so bearing in mind Mr S himself raised the issue with Barclays in the timeframe that he did, rather than at some later time where the delay would have tended to undermine his assertion that he expected to receive a payment.

I note that Mr S has also mentioned receiving multiple and confusing letters. Barclays has said this was an error and said it would pay Mr S £50 for the inconvenience. There doesn't seem any dispute that Barclays' service fell short causing Mr S inconvenience in that regard. I don't know whether the payment has been made or not, but I think a payment of the kind Barclays proposed, if not made already, would be fair for the inconvenience identified there.

In addition to this, and in light of my findings about, I think Barclays should also pay Mr S a sum to compensate him for the disappointment he suffered as a result of not receiving payment for his rights, caused by the information failing I have identified above.

I've considered what Mr S is likely to have achieved if he had tried to sell his rights. Barclays' notice told Mr S this was best done by phone if he wished to sell some of his rights in order to fund the exercise of remaining rights. Mr S didn't wish to fund the exercise of any rights, and the notice didn't specify a particular trading method to use if he wanted to sell his rights. It said (on the letters) that if he wanted to make a choice he could log in to his account – but the choice it referred to was either to take up the rights or to allow them to lapse. It didn't include as one of the two 'election options' the option of selling all of his rights. As I've said, it referred elsewhere to the sale of rights but only as a way to fund taking up some rights.

In view of all this I think the natural course for Mr S, wanting to sell his rights, was for him to call Barclays to sell them. I don't overlook what Mr S has said about not trading by phone in the past and the lower costs of online trading. But it is also the case that Mr S hadn't acted to sell rights in the past, as he'd relied on any premium being realised for him automatically. With all this in mind, I'm satisfied Mr S in this instance would most likely have sold his rights by phone and I think it fair and reasonable to proceed on that basis below.

As for what Mr S might have got from such a sale, he says an identical shareholding realised £300 as part of a bulk sale. I've received nothing from either Mr S or Barclays to suggest that it wouldn't be fair to proceed on the basis that for an individual sale Mr S would've realised an equivalent sum for his shares but before allowing for his trading costs with Barclays. Mr S has told us the number of shares in the two shareholdings was identical - if that is so, the figure before trading costs is £300.

Putting things right

I find Barclays Bank UK PLC at fault to the extent and on the basis outlined above. So I think Barclays Bank UK PLC caused Mr S inconvenience and disappointment as well as financial loss and so Barclays Bank UK PLC should put things right.

To put things right, Barclays Bank UK PLC should:

- Pay Mr S £150 for the inconvenience and disappointment. It may deduct from this the £50 it offered Mr S earlier if it has already paid that £50 to him.
- Pay Mr S the sum of (A) minus (B) - with (A) being the value his rights would have been sold for, which I find is £300 if his shareholding was the same size as his shareholding with his other broker but adjusted pro-rata if the size is different, and (B) being the cost of Barclays Bank UK PLC's phone dealing charge at the time.

My final decision

I uphold Mr S's complaint and order Barclays Bank UK PLC to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 November 2022.

Richard Sheridan
Ombudsman