

The complaint

The trustees of a charity which I'll refer to as T, complain that Barclays Bank UK PLC (Barclays) failed to make reasonable adjustments so that one of the trustees, Mr D could communicate effectively with the bank. In particular, the trustees say that Barclays' failure persisted over a number of months and caused distress and inconvenience

What happened

T has held an account with Barclays since 1984.

On 9 December 2022, Barclays wrote to Mr D and explained that to comply with the bank's legal and regulatory obligations - which is commonly known as a Know Your Customer review (KYC) - they needed information from T about its business.

Barclays asked Mr D to call the bank no later than 22 December 2022 at which time it would explain the documents T needed to provide. Barclays further explained that they would begin applying restrictions to T's account if there was no response.

Mr D has told us that he's profoundly deaf. And so, using the chat facility on his mobile App, on 22 December 2022 he contacted the bank and both he and an employee at the bank exchanged messages regarding the 9 December letter. At the end of that exchange the bank's employee said in the chat:

"I've managed to get through to the team and they've been able to get this set up so that you'll receive a call on the 29th December between 10 am 11 pm on your number ending 191 to get it all sorted and updated. The team will need to run through security with you at the start of the call".

Mr D doesn't recall being contacted by Barclays as promised. But he said on 21 January and 1 February 2023, he did receive notifications on his mobile App inviting him to update details relating to T. Despite various attempts, however, Mr D says he was unsuccessful because error messages kept being generated.

On 7 February 2023, the bank wrote to T to say its account had now been restricted because T hadn't provided the information the bank had asked for. Barclays said the information had to be provided by 22 February 2023 and until such time, T's account would remain restricted. Barclays asked T to call them by 22 February 2023 when it would be told the supporting documents that the bank needed.

On 10 February 2023, Mr D responded to Barclays. He again explained his hearing disability which meant he had difficulty with telephone communication, particularly outgoing calls. He asked Barclays to write to him setting out the information they required. He also asked the bank to remove the restrictions on T's account immediately.

On 13 February 2023, Barclays sent an e-mail to T setting out the information they required. And shortly after, on 15 February 2023, Mr D responded with that information. In addition,

however, Mr D pointed to the bank's failure to comply with the provisions of the Equality Act 2010 in the way it had dealt with him.

Barclays acknowledged receipt of the information and apologised for any inconvenience their request had caused.

On 22 February 2023, Mr D wrote to Barclays more fully to complain about his treatment over many months. Barclays didn't respond to the complaint. But on 2 March 2023 they sent a further letter to T saying they needed to make sure the information that they had about T's business was up to date. The bank asked T to complete a form and warned T that it may close its account if it failed to provide the information within the next 15 days.

On 7 March 2023, Mr D responded to Barclays drawing to their attention the fact he'd not only already responded to the bank's queries, but it had also acknowledged receipt of the information. He reminded Barclays that they hadn't responded to his complaint including his assertion that they had failed to comply with the Equality Act 2010.

On 23 March 2023, Barclays wrote to T saying they'd close its account in two months' time unless it provided up to date business details, prompting further correspondence from Mr D to the bank to complain about the events that had occurred to date.

Although Barclays told Mr D they'd logged his complaint, the bank didn't respond fully save to say there was no bank error in the conduct of their KYC process.

So, Mr D referred the complaint to this service to look into.

Describing the impact of Barclays' conduct, Mr D said he'd spent a considerable amount of time and effort dealing with the bank. And to put things right the bank needed to:

- convincingly change their procedures to ensure this scenario is not repeated for him or other deaf customers;
- apologise; and
- offer financial compensation as a gesture of its remorse.

In their formal response to this service regarding T's complaint, Barclays acknowledged that when they undertook their KYC review in 2022 Mr D did face difficulties using what was largely a telephony based system. They apologised that Mr D's emails went unanswered and offered £150 in compensation.

Barclays' offer was put to T. But it was rejected on the basis the bank's offer failed to address the prime objective in bringing the complaint. Mr D explained that this was to secure a change in Barclays' procedures so that he and other deaf customers would no longer need to experience what he described as humiliatingly and excruciatingly long-winded processes that were ill-suited to the bank's deaf customers.

Initially after looking into the complaint, our investigator acknowledged Barclays did fail to make reasonable adjustments in the way they communicated with Mr D. She further acknowledged Mr D found the experience distressing. But she said the entity bringing the complaint is T, the charity, and that this meant she had to consider what would be fair compensation for T. She didn't think in the circumstances of T's case further compensation beyond the £150 Barclays had offered was appropriate. She believed that figure was fair and reasonable.

Mr D disagreed and made further representation which the investigator considered. In light of those further representations, she issued a revised opinion reversing her previous conclusion. She said that contrary to her previous position she was satisfied she could now make a distress and inconvenience award in the circumstances of this case. So, she recommended that Barclays should increase their offer and pay T compensation totalling £500.

Barclays accepted the investigator's revised conclusions, but T did not.

In summary and on T's behalf Mr D said:

- He is keen there should be a significantly large award to encourage Barclays to take their responsibilities under the Equality Act more seriously.
- In spite of the increased compensation the investigator recommended, nonetheless, the amount significantly undervalues the degree to which Barclays' treatment of him caused him distress and inconvenience.
- Even though he accepts that our awards are not intended to be punitive, they should be realistic which £500 is not. In particular bearing in mind, that he's been discriminated against on the basis of his disability.
- Our service should more appropriately observe the award bands to which Employment Tribunals have regard to when determining compensation for distress caused by discrimination. In particular, the Vento bands which have been judicially approved for general application. They show that for what he experienced the compensation range sits between £1,100 and £11,200.

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 start by clarifying that for the purposes of this final decision, I am only looking at Barclays' acts or omissions in relation to T. So, whilst Mr D has helpfully set out the timeline of events which began in December 2021, I note the events which concern T directly, effectively began in December 2022. Events before that date are the subject matter of a separate complaint relating to Mr D personally. That complaint has already been lodged with Barclays. Therefore, in this final decision, I do not refer to any events that precede December 2022. I turn now to the substance of my decision.

Since they are strictly regulated, banks in the United Kingdom are required to carry out certain actions in order to meet their legal and regulatory obligation. That involves conducting ongoing checks and monitoring of new as well as existing relationships with customers. Barclays chose to do this by way of the KYC review and to that extent, I do not think they did anything wrong when they decided to conduct this review on T's account. That being said, I'm aware that at the heart of this case was the way in which Barclays did so. In particular, having regard to Mr D's testimony concerning the bank's treatment of him as a deaf person.

Barclays accepts that it provided T with poor customer service. However, Mr D doesn't see it that way. He believes Barclays have discriminated against him because, he says the bank failed to make the reasonable adjustments he'd asked for which was to put their information request in writing to enable him more effectively to respond to it. In other words, Mr D

believes that the way Barclays conducted the KYC review breached the Equality Act 2010. I can understand why Mr D feels this way, and I do think Barclays haven't quite grasped how its actions have made Mr D as T's trustee feel.

It's not disputed by either party that Mr D has a disability. The issue here is whether Barclays treated Mr D fairly and reasonably when interacting with him. Mr D has complained that Barclays have failed to make reasonable adjustments for him. In other words, that they have failed in their duty to make reasonable adjustments under the Equality Act 2010. I've taken the Equality Act 2010 into account when deciding this complaint – given that it's relevant law. But I've ultimately decided this complaint based on what's fair and reasonable. If Mr D wants a decision that Barclays has breached the Equality Act 2010, then he'd need to go to Court.

That being said, I find that T has been treated unfairly by the poor service Barclays delivered to it. I've borne the Act in mind in making that finding. Furthermore, I agree with Mr D's observation that this poor service extends beyond the scope acknowledged by Barclays whose position was that they'd failed to answer his emails.

Mr D repeatedly asked the bank to send their KYC queries to him by emails, for the reasons already noted. Barclays ignored such requests and persisted in writing to T requesting a phone call to discuss the bank's requirements. That meant Mr D repeatedly had to contact Barclays to make them aware of his disability and to ask them to correspond with him in writing. I'm satisfied that the bank's actions were personally frustrating for Mr D. But more to the point by extension the bank's omissions caused inconvenience to T for which it is entitled to be compensated by Barclays.

This now brings me to what would be an appropriate amount. As noted above, our investigator recommended £500 which Barclays have agreed to pay. But Mr D doesn't think this goes far enough and I've thought about the reason he's given for that conclusion. Mr D recognizes our role is not to fine or punish Barclays. That's a matter for the regulator, the Financial Conduct Authority (FCA).

I recognize too, that Mr D has a wider objective in pursuing this complaint which he's told us is to secure a change in Barclays' procedures so that in future, he and other deaf customers would be spared the same experience. But our role is to consider the individual dispute. And where necessary, make appropriate recommendation to put things right for the individual complainant rather than for the benefit of complainants that may fall within the same category. Here too that would be a matter for the FCA.

I also appreciate Mr D's representations that rather than have regard to our own parameters for determining what would be fair compensation for cases brought to us, we should have regard to the Vento bands which are used when assessing disability discrimination cases.

I am of course aware that Vento bands are used in claims that are successfully brought in Employment Tribunals under the Equality Act 2010. But as I've already made clear my role isn't to decide whether there has been a breach of the Act as this is something for the courts to decide. So, whilst I mean no discourtesy towards Mr D, given that I'm assessing T's complaint from the perspective of whether the bank has treated the charity unfairly and I have, my role is then to decide the extent of the inconvenience the bank's actions caused to T and then determine what would be fair compensation for the charity – T - in the circumstances.

So, now I turn to the inconvenience caused to T.

I note the investigator has recommended £500 compensation to take account of the distress and inconvenience caused to T as well as Mr D, whereas Mr D doesn't think the award recommended by the investigator is enough.

Determining an appropriate award for distress and inconvenience can be difficult. And Mr D has rightly acknowledged the award we recommend is not intended to be punitive for the financial business. Rather we base the award on what we think has been the impact on the complainant.

But in the circumstances of this case, I don't think the impact on T and Mr D warrants a further increase beyond the £500 that has been recommended.

In reaching that conclusion I've borne in mind that in relation to T, after requesting in December 2022 that Mr D phone the bank to discuss the information it needed for the KYC review, by February 2023 Barclays had asked for the information in writing as Mr D had been requesting all along. And Mr D was then able to provide the information. I've also borne in mind Mr D's unsuccessful attempts in January and February 2023 to update T's information using his mobile App which added to his frustration and inconvenience.

Later, and causing yet more frustration for which I do sympathize with Mr D, on 23 March Barclays wrote to T threatening to close its account within two months if they didn't hear back from T. But my understanding is that the bank didn't take that action and so T did not experience the loss of a functioning account.

Our guidelines suggest that an award of around £500 is fair and reasonable where a financial business has caused significant inconvenience and/or distress, upset and worry and with the impact typically lasting over many weeks or even months. With that in mind, I'm satisfied the inconvenience and distress were material in the circumstances of this case. But I'm also satisfied that £500 is both a fair and proportionate reflection of that inconvenience.

My final decision

My final decision is I uphold this complaint. In full and final settlement, I recommend that Barclays Bank UK PLC pays T £500 for the inconvenience caused to T and the distress caused to Mr D.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 27 March 2024.

Asher Gordon
Ombudsman