

The complaint

X is unhappy with the level of service received from Barclays Bank UK PLC ('Barclays').

X (the consumer in this case) has requested no title or pronouns are used when referring to X. As our Service's decisions are published on our website and therefore anonymised, I've used X throughout rather than X's name.

What happened

Prior to the events that form the basis of this decision, X called Barclays on 20 March 2024 in relation to a direct debit issue on X's bank account.

The call agent asked if they could take X through some security questions. X felt the agent was talking over X and interrupting and X explained this to the agent. The agent responded by saying *"I didn't talk over you Sir"*.

X was very upset by this as X identifies as female and felt X had been misgendered by the agent. X responded with abusive language towards the agent and the agent gave X a warning about that. The call was terminated shortly afterwards.

X called Barclays again on the same day to complain. Barclays at this stage accepted the error, apologised for what had happened and offered X £100 compensation for the distress caused, which X accepted as a resolution.

The following events describe the basis of X's specific complaint here. On 21 March 2024, the day after the call described above, Barclays sent X a letter containing a warning about the abusive language X had used on the previous call. This letter explained that if the behaviour continued, Barclays may decide to restrict or close X's account in line with their terms and conditions.

X was upset by this letter and called Barclays again on 27 March 2024 to discuss it. X says that during this call, after they had already been verified, X was misgendered again by the call agent. X also felt that the call agent spoke in a condescending and rude tone, when X explained X was upset by what the agent had said.

X called Barclays again on the same day to complain about what had happened. Barclays issued their final response letter on 5 April 2024, and they did not uphold the complaint.

X referred the complaint to the Financial Ombudsman Service and one of our Investigators looked into it. In summary, they upheld the complaint and recommended that Barclays pay £300 compensation in recognition of the distress suffered by X in relation to this matter.

Barclays did not agree and requested that the matter be referred to an Ombudsman for a final decision to be made – which is why it was passed to me.

I considered the matter and issued a provisional decision on 16 October 2024. In that decision, I said:

"Having considered everything carefully, I currently agree with the outcome reached by the Investigator, and for broadly the same reasons. I'll set out my provisional findings below.

X has made a number of previous complaints to Barclays relating to similar issues, but this complaint only covers the issue I've outlined above.

On the call of 27 March 2024 that forms the subject of this complaint, X has told us that X had already been verified by the time that the instance of misgendering took place. I asked Barclays to provide a copy of this call recording, as it hadn't been sent to us previously. They've now provided this, and I've listened to what happened.

As mentioned above, the purpose of this call was that X wanted to discuss the letter Barclays had sent warning X about X's abusive behaviour towards staff. X asked to speak with the person who sent the letter. The agent said they would see if that person was available and asked X to "bear with me a few minutes Sir" while they looked into this. The agent then placed X on hold.

The agent then returned, taking X off hold and explaining the member of staff who sent the letter was unable to speak with X at that time. X was unhappy with this, and the conversation quickly broke down. X said they would like to make a complaint about the agent being, in X's view, unhelpful.

The agent then asked X to confirm X's name, which X did. After some further discussion about the aforementioned letter, X explained to the agent that they called X "Sir" earlier in the call and that X felt discriminated against as a result. The agent apologised to X for this but X wanted to make a complaint about it.

The agent apologised again, but X didn't accept this apology, on the basis that X had used the Barclays app to place the call and therefore felt the agent should've been aware of X's gender from the outset based on X's account details. The agent confirmed they could email the person who sent X the aforementioned letter to arrange a call back at a later point. Further discussion ensued and X confirmed the intention to raise a complaint. The agent confirmed they would log the complaint, which X acknowledged, and the call ends.

For clarity, generally speaking, if the call is outbound by Barclays staff, I wouldn't expect any mistakes in titles or pronouns used because staff should already have the consumer's details prior to placing the call. If the call is inbound, then it is understandable – on occasion – that errors can be made when using the initial courtesy title of 'Sir' or 'Madam' when the titles and pronouns of the caller are unknown. However, as soon as the caller has corrected any initial error, or made their title/pronoun clear, or – alternatively – as soon as the caller has passed security and is identified on the system, I wouldn't expect to see any further instances of misgendering. In summary, if the Barclays staff member has been given the relevant information to refer to the consumer correctly, I'd expect them to use it. If the staff member does not yet have access to this information, then a genuine error (followed by a genuine apology once the mistake is pointed out) is understandable, providing this error is not repeated once the position is made clear.

On this particular call, X was not taken through security prior to the instance of misgendering that occurred when the agent called X "Sir" before placing X on hold. However, as I've explained above, X made the call through the Barclays app. From listening to the other calls available, I can hear from the second call which took place on 27 March 2024 (where X called to complain about the aforementioned instance of misgendering), that the agent on that call confirmed that by calling through the app, a customer is already verified. They therefore don't normally need to ask any other security questions. All the agent would've then needed to do is ask the customer to confirm their name, to make sure this aligned with the details they could already see.

This suggests that X's details would've already been available to the agent on the first call on 27 March 2024, prior to X being misgendered, given that it is stated on the recording that X had made the call through the Barclays app. Indeed, this is one of the methods Barclays has suggested X should use in future to ensure X is not misgendered again (a point which I'll comment on further below).

So, based on the information I've seen so far, I agree that Barclays is at fault for the misgendering that occurred, as whatever other information the Barclays staff member was or wasn't given, X's account details should've been sufficient to provide the staff member with sufficient information to refer to X by X's correct title. As such, I've focused here on what remains in dispute, namely the level of compensation for the distress caused to X as a result of the error.

I don't think the agent misgendered X with malicious intent or on purpose. From what I've heard on the call, it appears it was a genuine mistake and I'm pleased to hear the agent apologised, which is what I'd expect them to do. I also don't think the agent spoke in a rude tone or manner at any stage during the call. Nevertheless, for the reasons I've explained above, the mistake should not have happened. X has told us X has anxiety and depression and it's clear that what happened caused X considerable distress and upset. So, for these reasons, I'm currently satisfied £300 is fair and reasonable in the circumstances of this case.

In relation to the compensation award, Barclays said they had already paid X about £2,100 in total in relation to previous complaints, so they felt they had already compensated X sufficiently for the distress caused. However, the previous compensation that X has received from Barclays was presumably in recognition of previous errors. I can't see any reason why these earlier payments should limit the compensation now owed to X in respect of the distress caused by this new error Barclays has made.

Barclays also referred to another final decision by this Service which they felt supported their argument that no further compensation is warranted here. But, our Service looks at each complaint individually on its own merits and particular circumstances. The same error can also impact consumers differently, depending on their individual vulnerabilities which we also take into account when reaching our compensation awards, as I have done here in this case.

So, while I acknowledge the points Barclays have raised, I remain of the view that £300 compensation is fair and reasonable in the individual circumstances of this particular case and that is what I'm intending to award here.

There are a few remaining points left to discuss.

Firstly, it appears that the abusive behaviour exhibited by X in this case was a direct result of X being repeatedly misgendered by Barclays staff. And I think it is worth pointing out that being misgendered may be experienced as a form of abuse or attack on one's authentic identity, especially for members of the trans and non-binary community.

I want to be clear that I do not condone X's abusive behaviour towards staff. I'm also not suggesting that Barclays' error entitled X to treat Barclays staff in this way. Barclays are entitled to have policies in place to protect their staff from abusive behaviour and take action if such behaviour is displayed. So, like the Investigator, I don't think it was unreasonable for Barclays to make X aware of what might happen if some of the aforementioned behaviour towards staff continued. However, when making such an assessment I'd expect Barclays to take into account an individual customer's circumstances and any vulnerabilities that may be prompting such behaviour.

Secondly, although it does not fall within the scope of this decision, X has told us that X has experienced similar instances of misgendering when calling Barclays in the past, and that X has found it necessary to make a number of previous complaints. X is concerned that the same error will continue to happen in the future.

Barclays have explained that they have put a marker on X's account which states that staff 'should not assume gender', i.e., that staff shouldn't make assumptions based on X's voice pitch and tone. This would be viewable to staff once they have taken X through security.

Nevertheless, Barclays have said they can't guarantee that the same mistakes won't happen again. For this reason, Barclays have said they recommend X uses mobile banking instead of calling them. They've also said that if X does need to call, X should do so through the

mobile banking app, which allows staff to identify X sooner. Barclays has also suggested X use other ways to bank, such as push-notifications to track transactions, more frequent bank statements and digital banking.

In essence, it seems Barclays are suggesting that, rather than Barclays implementing solutions, such as better staff training, X shouldn't use X's preferred communication method and should avoid the problem by simply not speaking to Barclays over the phone. Although some customers might find the mobile banking app or other tools appealing, I understand that X has said X prefers to use the phone when contacting Barclays, and that this method of communication is more helpful for X due to X's anxiety. So, using mobile banking only isn't a solution for X.

X should have the same access to the full range of communication methods as any other Barclays customer. The responsibility lies with Barclays to ensure its staff do not misgender X regardless of the communication channel being used and I've set out above what I'd generally expect in this regard.

So, while it's not part of my remit to make any specific direction to Barclays as to how to manage things better for X going forward, I would expect them to take into account the above points when doing so."

I provisionally decided to uphold the complaint for the above reasons, and explained I intended to direct Barclays to pay X £300 compensation for the distress caused as a result of their error.

Both parties responded to my provisional decision and accepted it.

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.

Following the responses from both parties, I've considered all the evidence and arguments afresh.

As neither party has provided any new evidence or arguments, I don't believe there is any reason for me to reach a different conclusion from that which I reached in my provisional decision (outlined above).

My final decision

I uphold X's complaint and direct Barclays Bank UK PLC to pay X £300 compensation for the distress caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 20 November 2024.

Fiona Mallinson
Ombudsman