

## The complaint

Mr B has complained about the misinformation he received from Barclays Bank Plc, trading as Barclays Smart Investor ('Barclays'), about the transfer of shares from his save as you earn ('SAYE') scheme to his ISA account. As a result, he says he will have to pay capital gains tax ('CGT') upon disposal of the shares, and he wants to be compensated for this.

## What happened

Mr B was issued with shares in his employer's company via his share save scheme with 'Company G' – the SAYE share administrator – on 15 November 2022. Mr B wanted to transfer the shares to his ISA account and HMRC rules allowed him 90 days to complete this, so he had until 13 February 2023.

Mr B wanted to transfer his SAYE shareholding to his ISA account he held with Barclays and contacted Barclays on 23 November 2022. Barclays provided him with all of the transfer information which Mr B passed on to Company G to initiate the transfer. That proved to be unsuccessful as Barclays didn't accept non-Barclays share transfers directly into an ISA from Company G. It would only accept Barclays' SAYE schemes if they were administered by a different administrator – 'Company S'. Mr B raised his concerns with Barclays.

In responding to Mr B's complaint, Barclays recognised that the service he received wasn't as it should have been as its agents could have made more effort explaining it was unable to accept transfers from a Company G account. In recognition of the poor experience, it offered Mr B £50.

Mr B wasn't happy with the outcome and brought his complaint to this service. He told us he had used his CGT allowance for the relevant tax year and will use it elsewhere in the current and next tax years so CGT would be payable when he sells the SAYE shares. To put the matter right Mr B wants Barclays to pay the CGT he would have incurred if he had sold the shares on the date of him making the complaint. He said it couldn't be known at what price he will sell the shares at in the future, so he said that by using this semi-arbitrary date it was fair for both parties and also allowed the crystallisation of the CGT.

Our investigator who considered the complaint thought that Barclays needed to do more. He said;

- Mr B delayed contacting Company G with the transfer details given to him by Barclays. If he had done so sooner, it would have been known earlier that Barclays could not accept the shares and Mr B could have sought a different platform provider.
- Company G had tried to contact Barclays in January 2023 but as it had been using the incorrect details supplied by Barclays to Mr B no response was received.
- Barclays informed Mr B on 6 February 2023 that it could not accept the shares which was likely too late for Mr B to find a different provider before the deadline.
- Mr B did use his ISA allowance but that was not until 12 March 2023 which was after

the 90-day transfer window had closed so this would not have been a barrier to Mr B subscribing to an ISA with a different provider that would have accepted the shares. But this was still relevant as the shares were outside of an ISA wrapper so could be liable for CGT.

- Mr B had not sold the shares so had control as he could sell within his annual CGT allowance and there was not any evidence that the allowance was not available to him.
- While the shares were outside of an ISA, which was not what Mr B wanted, there was no evidence he had suffered a loss and he could use his annual CGT allowance to mitigate any tax.
- But Mr B had suffered distress and inconvenience which could have been avoided if Barclays had asked relevant questions during calls it had with Mr B so the investigator thought an additional payment of £200 should be paid to Mr B.

In response, Barclays agreed to the additional payment.

Mr B didn't agree. He said;

- He had initiated the transfer online with Company G on 23 November 2022.
- He had not chased until 3 January 2023 as he had been told the transfer would take around three weeks plus the Christmas break.
- Company G had chased Barclays but did not initially receive any response and Barclays had not picked up on its error in any event.
- If Barclays had responded sooner, he would still have had time to transfer to another provider.
- He had missed the opportunity to have the SAYE shares transferred directly into an ISA thereby avoiding any CGT liability as allowed by HMRC. So, it was not right to say he could use his CGT allowance – which had been significantly reduced by Government – in future as that could have been avoided in any event.

As the complaint couldn't be resolved, it was passed to me for a decision in my role as ombudsman. I thought that Barclays needed to move to put the matter right than as proposed by the investigator. So, I issued a provisional decision in order to allow the parties the opportunity to provide me with any further information or evidence for my consideration before I issued my final decision. This is what I said;

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

After doing so, and because of new information provided by Mr B, I think Barclays needs to do more than recommended by the investigator to put the matter right. So, I am issuing this provisional decision to allow the parties to provide me with any more information or evidence they'd like me to consider before I issue my final decision.

My understanding is that Company G provides investment services for SAYE facilities for multiple companies. Barclays has told us it does accept shares in its own company ie SAYE shares owned by Barclays' employees but only via another investment services firm I have referred to as 'Company S' in my decision. But Barclays said it doesn't, nor is it under any obligation to, accept direct transfers into an ISA account from any other employee company, which is the case here. But it said that Mr B could have proceeded in the standard way by selling the SAYE shares and then buying them back within an ISA wrapper.

But by doing that the shares would be liable for CGT at the point of sale which isn't what Mr B was setting out to do.

Barclays informed Mr B on 6 February 2023 that it wouldn't accept the non-Barclays SAYE shares administered by Company G into an ISA. But it said the transfer requests previously made by Company G hadn't been sent to or received at its usual address or sent to the agreed email address. As Barclays hadn't received the transfer request, it couldn't have explained to him any earlier that it couldn't accept the transfer.

I provisionally accept that Mr B could never have lodged his SAYE shares directly into an ISA account with Barclays. It has told us it only allows this for Barclays SAYE shareholdings administered by Company S. But if Mr B had been informed of this at the outset, or sooner than was the case, he could have sought a different provider who could have done this for him and within the 90 day limit. So, I've considered the information Mr B was given by Barclays and the timeline of the complaint.

Our investigator concluded that Mr B had provided the details for the transfer to Company G on 3 January 2023 and Company G first contacted Barclays on 4 January 2024. But in response to the investigator Mr B told us he initiated the transfer with Company G on 23 November 2022.

I asked Mr B for evidence that he had contacted – online – Company G on 23 November 2022 to initiate the transfer. He messaged Company G who responded to say;

'23-Nov-22 – You requested to transfer your shares to Barclays Smart Investor and provided us with account Number ID [...]. On 24th of February 2023, you confirmed to us via our Service Desk that Barclays had let you know they were not able to accept the transfer from [Company G].'

I asked Mr B for evidence from Company G to show when it contacted Barclays to initiate the transfer of shares. Unfortunately, Company G said it wouldn't have such information as the communications would have been deleted. Clearly this would have helped in establishing when the transfer to Barclays was initiated. However, when I am presented with information that is conflicting or incomplete, I have to base my opinion on the balance of probabilities and what I think most likely happened.

Barclays has provided a copy of the call of 23 November 2022 when Mr B initially spoke with Barclays, and it was established that the shares were being transferred from a share save scheme and into an ISA. Mr B was given the transfer information details he would need to give the transferee platform – Company G – in order for it to initiate a transfer. He was also given the details for Barclays' 'standard' transfer process and email address. But, and as it turns out crucially, during the call Mr B didn't mention what his shares were ie they weren't Barclays SAYE shares and were coming from Company G and not Company S.

It doesn't seem unreasonable to me to assume that if the call handler was aware of the name of the shareholding or transferee platform then he would have advised Mr B differently in that it wasn't possible to transfer the shares. Barclays has told us that it wasn't aware;

'of any significant contacts from people trying to transfer assets from a SAYE which are not Barclays shares. These shares will almost always be transferred to the "sponsoring" broker, (the preferred broker or the broker mentioned in the paperwork when the client first signed up to the SAYE), to allow a smooth transfer of assets.'

And it went on to tell us that there was no indication during the call of 23 November 2022 that the shares being discussed either were or weren't Barclays shares. However, in my opinion once it was established these were SAYE shares, then the onus here was on Barclays to have sought additional information from Mr B during the call to ensure it was giving him the correct information.

I say this because Barclays' comments suggest to me that it was Mr B who was responsible for not making clear that the shareholding he wanted to transfer weren't Barclays SAYE shares originating from Company S. But I would question how Mr B would have been expected to have known this was the information Barclays needed from him without it making that clear to him during the call.

Barclays has said it was likely that the paperwork provided to Mr B when he signed up with the SAYE scheme, throughout the SAYE scheme and upon maturity would have been clear who the sponsoring or preferred broker would be. I think what Barclays is saying is that Mr B should have used the sponsoring broker of the SAYE. But Mr B already had an ISA account with Barclays so there would be no reason for him to consider opening another ISA account with a different investment services business.

And while Mr B did hold both a general and ISA account with Barclays, which suggests he had some investment experience, I haven't seen anything to indicate that he had carried out a transfer of shares from an SAYE scheme into an ISA before. Or that he would or should have known it was vitally important during his call with Barclays that he had to make clear the shares he wanted to transfer weren't Barclays SAYE shares originating from Company S.

I am currently of the opinion that if Barclays has that sort of limitation on the type of SAYE shares it accepts into an ISA account, then I think the responsibility is for Barclays to make that clear. I think it's at fault here.

I've also looked at Company G's attempts at transferring the shares and its subsequent contact with Barclays on behalf of Mr B. In this case I think it more likely than not that Company G would have initiated the transfer of Mr B's shares shortly after he gave his instruction to do so on 23 November 2022. I say this because Company G is aware of the SAYE environment and rules around timing so I don't think it is unreasonable for me to assume that it would have acted on Mr B's transfer instruction promptly, say within a week, so by 30 November 2022. And I also note from the call transcript of the conversation Mr B had with Barclays on 24 January 2023 that he does refer to the transfer as being ongoing for two months, which tallies with the date from the end of November 2022.

Our investigator concluded that Mr B hadn't made the initial transfer request to Company G until 3 January 2023 who in turn contacted Barclays on 4 January. But for the reasons given above, I think it is likely Company G initiated the transfer at a much earlier date. And so I think it's most likely Mr B was chasing for an update on 3 January and not initiating the transfer. Mr B told us he was advised he should allow three weeks for the transfer plus the Christmas break, so him making contact in early January 2023 ties in with those dates. And Company G has told us it chased

Barclays on 4 January (at 12:41), 23 January (at 13:35) and 30 January (at 10:50) but only received an automated response saying it would hear back within five days, but it never did.

In its submissions to this service Barclays has said that any transfer request hadn't been received at its usual email address – which is prefixed with 'SW'. However, it's clear from the call Mr B had with Barclays that he was given an email address that was pre-fixed with 'FNZ' despite him being clear it was an SAYE transfer, and it was this address which was used by Company G in making contact with Barclays. But from my subsequent correspondence with Barclays, I understand that both email addresses can be used for a transfer request.

And we know the emails Company G sent were received by Barclays as it received an automated response saying the sender would hear back within five days. In any event, if an incorrect email address had been provided to Mr B I would have expected this to have been realised by the recipient at Barclays who would have let Company G know.

So, in the particular circumstances of this complaint I provisionally think that Barclays didn't provide Mr B with the service he was expecting. It failed to establish during the call of 23 November 2022 that it wouldn't be possible to transfer his SAYE shares to his ISA with Barclays. And it didn't respond to Company G's emails or attempts at chasing despite Company G using the email address given by Barclays to Mr B. If it had done so, that might have allowed Mr B to seek an alternative ISA provider.

Because of this, I think Barclays needs to do more to put the matter right. Mr B has suggested that the gain on his SAYE shareholding should be crystallised with a hypothetical sale on the date of his complaint and for Barclays to pay that amount. This was because it wasn't foreseeable when he would sell the shares.

However, I don't think that is the right outcome. First because we know that Mr B was able to use his ISA allowance in the applicable tax year which means he hasn't lost out on using an annual ISA allowance and the associated benefits. So, there's no evidence of a financial loss because of that.

And while I accept it can't be known what the share price of Mr B's shares will do and when Mr B will sell the shares, I don't think this issue can be put right by hypothetically crystallising the gain (or loss) at any given date. I can't make an award for a hypothetical loss, only an actual financial loss. And while Mr B has said he intends on using his ISA allowance in the years in the future, he does have the capacity to manage that and his CGT position. And in doing so, has the ability to incorporate his SAYE shares within that management.

But equally I recognise the significant inconvenience this will cause Mr B as potentially he won't be able to manage his general account, ISA investments and CGT position as he would like. A certain amount of choice will be taken away from him. And in recognition of that I think Barclays should pay him £350.

And I am also currently of the opinion that Mr B was distressed during this time. He acted in good faith on the information given to him by Barclays and passed the transfer instruction details to Company G who in turn I have concluded most likely dealt with the request in a timely manner. And it must have been distressing for Mr B to see his plans to transfer the SAYE shareholding to his ISA account fail and subsequently have to rearrange his ISA plans for that year because of the lack of clarity sought by Barclays and its lack of response to being chased for updates and

an outcome. So, as well as the £50 already offered by Barclays I think the additional sum of £200 should also be paid to Mr B as recommended by the investigator and agreed to by Barclays. So, a total payment of £600.'

Mr B replied to say that he thought the value should be higher but he understood my logic. He didn't have any new information.

Barclays responded to say that while its stance on the complaint remained unchanged, it didn't have anything further to add.

### **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.

As neither party to the complaint has given me anything further to consider, I see no reason to depart from my provisional decision. So, I confirm those findings.

### **Putting things right**

To put the matter right Barclays should pay redress of £600 to Mr B as detailed in my provisional decision.

### **My final decision**

For the reasons given above, my final decision is that I uphold Mr B's complaint about Barclays Bank Plc, trading as Barclays Smart Investor, and it should put the matter right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 November 2024.

Catherine Langley  
**Ombudsman**