

The complaint

The estate of Mrs N complains that Barclays Bank UK PLC are holding the estate liable for transactions which they say weren't authorised.

What happened

The complaint is brought on behalf of the estate of Mrs N.

On 16 September 2016, Mr D met with Mr H, a representative of a solicitor's firm ("H") engaged in will writing and estate planning. A trust was set up so that when Mr D passed away, half of the estate would go to Mrs N's care costs, and the rest to Mr D's family. £10,000 was paid in fees to H.

Mr D passed away on 31 August 2017, and Mr H notified the estate that he was an executor under the will. All accounts held by Mr D solely and jointly with Mrs N were put into Mrs N's name.

On 10 September 2018, Mr H applied to the Office of the Public Guardian ("OPG") to take out a Lasting Power of Attorney ("LPA") for Mrs N, notifying Barclays on 18 September 2018. Barclays was also notified of Mr D's passing. The document, which was signed on 16 September 2016, named Mr H as replacement attorney when Mr D was no longer able to act, meaning Mr H had authority to act on Mrs N's behalf.

Mrs N passed away a few days later, on 21 December 2018. Barclays wasn't notified about Mrs N's passing until 23 May 2023, and her bank accounts were left open.

The estate complained to Barclays about its acceptance of an LPA for the late Mrs N, and the fact it continued to allow Mr H to manage her accounts after her passing. But Barclays said the LPA was accepted by the OPG, so no further checks were required. And it followed the correct process when accepting the LPA and setting up Mr H as attorney. It said Mr H had authority to act on Mrs N's behalf, was trusted to act with integrity, and as the legal attorney, he would have been able to authorise the payments.

The estate wasn't satisfied and complained to this service arguing that Barclays allowed the fraud to happen without making the appropriate checks. It argued that Barclays ought to have questioned why it was notified of Mr D's passing, and the grant of the LPA at the same time, and that if it had completed checks it would have noticed money was being removed from a deceased persons account without a grant of probate. It also questioned why Barclays didn't question a probate fee on 29 April 2019 when it hadn't been notified of Mrs N's passing.

Responding to the complaint, Barclays said it would pay compensatory interest on £7,531.94 it had refunded to the estate. But it maintained that an LPA can only be set up by the OPG, and it didn't make a mistake by allowing Mr H to access the account as he was authorised to do so by the LPA.

It further explained that even though the LPA stated Mr D's father was the attorney, Mr H

had set up delegated authority for Mrs N. It accepted Mr H had transferred funds from the account, but it didn't make a mistake because Mr H had access to the account.

Our investigator explained that payments from the account had continued after the solicitors had ceased trading, and that it took a long time to notify Barclays of Mr D's death, so she thought it H was most likely operating a scam.

She accepted that Mr H held LPA for Mrs N, so he had authority to make the first payment. But she noted there weren't any similar payments from the account in the six months prior, but there was a discrepancy with the first payment and so Barclays should have intervened and had it done so, she didn't think he'd have been able to give a satisfactory response, and the payment would've been prevented.

She further noted that Mr H made payments after Mrs N passed away and while he did have authority to act on the account as an executor, the payments weren't being made for the benefit of the estate and were therefore not in the scope of the authority given to him as an executor. She explained that when he made payments for the benefit of himself personally, he wasn't acting in his capacity as an executor, so the transactions were unauthorised from payment two onwards and should be refunded to the estate along with the first payment.

Barclays has asked for the complaint to be reviewed by this service arguing that this doesn't meet the definition of an Authorise Push Payment ("APP") scam and that it is a civil matter. It maintains Mr H was the executor of the late Mrs N's estate, so this wasn't a fraud or a scam. It accepts Mr H didn't use the money as the account holders intended, but he was authorised to access the accounts and the funds held within the accounts, therefore the transactions were authorised.

My provisional decision

I issued a provisional decision on 10 December 2025 in which I stated as follows:

I don't intend to make a finding on whether H was operating a scam but, for completeness, if Barclays had intervened on 18 December 2018, I don't think it would have made a difference because any intervention would likely have resulted in a conversation with Mr H, and I think he'd have satisfied Barclays that the funds were being used within the scope of the LPA, which he'd registered that day. And I don't think there were any further opportunities to intervene because none of the payments exceeded the first one, and they were to an existing beneficiary.

I've also considered whether the Contingent Reimbursement Model ("CRM") Code applies to these payments, and I don't think it does. The first payment was made by Mr H - who was authorised to make the payment under an LPA - but as there is no suggestion that he was the victim of a scam, the Code doesn't apply. And as I'm satisfied Mr H no longer had authority to make payments once Mrs N had passed away, I don't think they can be treated as authorised push payments for the purposes of the Code.

Were the transactions authorised?

Authorisation has two limbs - authentication and consent. So, Barclays needs to show the transactions were authenticated as well as showing they were consented to.

There's no dispute that the transactions weren't properly authenticated, and so I need to consider whether they were consented to.

Mr H was appointed as attorney under an LPA which was registered with the OPG on 10

September 2018, which named him as a 'replacement attorney' when Mr D was no longer able to act. Barclays was notified of the LPA on 18 December 2018, at the same time it was notified about Mr D's passing.

The LPA gave Mr H authority to make decisions in relation to Mrs N's property and financial affairs and meant he was authorised to access the funds in the account and to make transactions on the account. Consequently, I'm satisfied the payment dated 18 December 2018, which happened before Mrs N passed away, was authorised for the purposes of the Payment Services Regulations 2017. And even if Mr H acted outside of the scope of the LPA in making the payment, this wouldn't affect the fact it was authorised under the regulations.

I've considered whether Barclays ought to have been concerned that the LPA was signed in September 2016, and that it was simultaneously notified of Mr D's passing, but I think its position that the LPA was accepted by the OPG and therefore no further checks were required is reasonable.

However, the existence of the LPA only meant Mr H was authorised to make payments until Mrs N passed away. I've considered if Mr H would have had authority to make the payments in his capacity as an executor under the will if he'd notified Barclays of Mrs N's passing, and I accept it's possible he'd have been granted authority to carry out transactions on the account. But I think it's unlikely that Barclays would have agreed to pay H's fees until after the Grant of Probate, and I think the account would have been frozen until the Grant of Probate. So, Mr H wouldn't have had authority to make the payments.

Overall, I'm not satisfied that Barclays has shown that any of the payments that were processed after Mrs N's passing were authorised, so I'm minded to direct that they should be refunded to the estate. I'm also minded to direct Barclays to pay interest from the date of each payment to the date it makes the settlement.

Compensation

Barclays paid £200 to the estate for the delays in their investigations and I'm satisfied that's reasonable.

Developments

Barclays maintains that the complaint is a civil dispute on the basis that Estate is dissatisfied with the service offered by the firm and the distribution of funds.

Additionally, it doesn't accept the payments processed after Mrs N's passing were unauthorised because it wasn't notified of her passing until June 2023. It has argued that Mrs N provided express consent for Mr H to make the payments on her behalf in line with the LPA, therefore there was clear consent for him to instruct Barclays to execute a series of payment transactions on her behalf. So, it acted in line with a valid mandate up until the point it was notified of Mrs N's death.

It has argued that it would be unreasonable to expect it to have known about Mrs N's passing prior to express notification and that according to Section 1(1) of the Administration of Estates Act 1925, a personal representative has legal title of the deceased's Estate vested in them upon the deceased's death and not on the Grant of Probate. So if it had been notified of Mrs N's death, it would have requested documentation from Mr H in his role as Executor and that it would reasonably expect that he would have been able to satisfy those requests, so he would have been able to distribute the funds in accordance with the will prior to the Grant of Probate.

The estate has argued that Barclays should not have processed the payment of £19,636 on 18 December 2018 because Mr H was never granted an LPA - he was named as a 'replacement attorney' but there was no authority for the replacement attorney to execute any of the roles or responsibilities granted to the named LPA. The estate has argued that Mr H didn't ever lawfully become the LPA, so the withdrawal shouldn't have been allowed.

The estate has further argued that all transactions must be in the best interest of the donor and align with their wishes and needs, and that Barclays should have questioned why the payment was being transferred into a private account rather than the business account for Greenwich Council.

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.

Barclays has argued that this is a civil dispute, but this isn't relevant to the issue of whether the payments were authorised.

I note Barclays' comments that it wasn't notified of Mrs N's passing until June 2023, but I maintain that Mr H was only authorised to make payments under the LPA up to the date of her passing, and that after that point, he would no longer have Mrs N's consent. So, under the Payment Services Regulations 2017, the transactions were unauthorised.

Further, I'm not persuaded that Mr H would have been given authority to make payments before the Grant of Probate. I accept small amounts might have been released, but as I've stated above, I think it's unlikely that Barclays would have agreed to pay H's fees until after the Grant of Probate. So, he wouldn't have been authorised to make payments from the account.

Dealing with the points raised by the Estate. It has been argued that there was no authority for Mr H to execute any roles or responsibilities granted to the named LPA because Mr D had passed away before the LPA was registered with the OPG. I've thought carefully about this, and in circumstances where there was a named replacement attorney, I'm satisfied the LPA was valid when it was registered with the OPG, which means that authority did pass to Mr H upon registration.

Finally, while I accept an attorney must act in the best interests of the donor, I'm afraid this is not relevant for the purposes of whether the transaction was authorised, and so I maintain that the payment dated 18 December 2018 was authorised for the purposes of the Payment Services Regulations 2017.

My final decision

My final decision is that Barclays Bank UK PLC should:

- refund the transactions from the second payment onwards.
- pay 8% simple interest*, per year, from the respective dates of loss to the date of settlement.

*If Barclays Bank UK PLC deducts tax in relation to the interest element of this award it should provide the estate with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs N

to accept or reject my decision before 23 February 2026.

Carolyn Bonnell
Ombudsman