

complaint

Mrs B complained that Barclays mis-sold her a packaged bank account in May 2010.

background

The background to this complaint was set out in my provisional decision dated February 2016. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I set out why I was minded to uphold the complaint. I invited both parties to let me have any further comments and evidence. Both Mrs B and Barclays have provided us with some additional comments.

Mrs B has reiterated some of the information she'd previously given us, and explained she was much happier with the findings in my provisional decision than she had been with our earlier assessment.

Barclays has said that it doesn't agree with the findings I have reached. Although in this decision I've summarised the response Barclays has given us, I have read and thought about everything it has said in detail. Barclays has said;

- It thinks Mrs B chose to take the Current Account Plus when she found out the Additions Active account wasn't right for her. This is likely because Mrs B registered a phone for the mobile phone insurance within a month of taking the account. The cost of the account would have been competitive against the cost of a similar standalone mobile phone insurance policy at the time.
- Just because Mrs B doesn't remember agreeing to take the Current Account Plus doesn't mean that it didn't happen. Barclays has an account note that indicates the account change was agreed with Mrs B before it happened.
- Mrs B had previously held a free account with Barclays on two occasions – before 2001 and between 2002 and 2008. So it's likely she was aware she didn't have to pay for her account.

my findings

I've once more considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I don't consider that Barclays has provided me with any new information that makes me think my provisional decision was incorrect. So I'm going to uphold Mrs B's complaint.

Much of what Barclays has said in its response to my provisional decision was already covered in that decision. I acknowledged that Mrs B had registered a mobile phone, though said that she had explained this was because of a conversation with a friend rather than something that attracted her to the account.

In its response to us, Barclays provided us with the details of the phone that Mrs B registered – the only phone she ever registered in the five years she held the account. In 2010 when the phone was registered it cost around £30 new. So I'm not persuaded that, given the modest cost of her phone and taking into account the other benefits on the account, Mrs B would have been attracted to an account that was costing her £60 per year

and would have needed her to pay a £25 excess if she made a claim on the mobile phone insurance.

I have thought about the account note that Barclays holds – the note says “*additions cancelled as was told the travel insurance would not cover so would like to go back to current account plus*”. Neither Barclays nor I know for certain what was discussed with Mrs B at the time. The note was made by the sales advisor and I think it’s unlikely that Mrs B was given the opportunity to check it at the time – or was even aware it had been made. So it doesn’t persuade me that Mrs B asked to go back the Current Account Plus – I think it more likely that she simply asked to be downgraded from the Additions Active account.

And, although Mrs B might have been aware that she didn’t need to pay for her account some years earlier – I don’t think that’s enough to make me conclude that this sale wasn’t assumed and that she was given a fair choice by Barclays.

So I uphold Mrs B’s complaint and direct Barclays to pay her fair compensation as set out in my provisional decision and repeated below for clarity.

fair compensation

Barclays should put Mrs B back into the position she would have been in if she had been sold a free account instead of the Current Account Plus in 2010. So Barclays should;

- refund and pay Mrs B the fees that she has paid for the Current Account Plus since May 2010; and
- add interest at 8% per year simple on each of the account fees from the date of payment to the date of settlement[†];

If Mrs B has saved money because of a better rate on her overdraft, loan or savings account by having the packaged account and Barclays can show exactly how much Mrs B saved, it may deduct these savings from the amount it pays her. Barclays must explain clearly and simply to Mrs B how it has worked out any savings.

[†] HM Revenue & Customs requires Barclays to take off tax from this interest. Barclays must give Mrs B a certificate showing how much tax it’s taken off if she asks for one.

my final decision

My final decision is that I uphold Mrs B’s complaint and direct Barclays Bank Plc to pay her fair compensation as detailed above.

I make no other award against Barclays Bank Plc.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs B to accept or reject my decision before 8 April 2016.

Paul Reilly
ombudsman

EXTRACT FROM PROVISIONAL DECISION

complaint

Mrs B complains that Barclays mis-sold her a packaged bank account in May 2010.

background

Mrs B originally held a free account with Barclays. She first upgraded it to a packaged Additions account in August 2001 before returning to a free account in June 2002. She then upgraded to a packaged Current Account Plus in August 2008 and to an Additions Active account in April 2010. Her account was downgraded back to a Current Account Plus the following month, in May 2010, and remained so until it was downgraded back to a free account in February 2015. The following month Mrs B complained to Barclays about the sales of the packaged accounts.

Barclays looked at Mrs B's complaint and agreed she had been mis-sold the Additions account in 2001 and the Current Account Plus in 2008. Mrs B didn't pay any fees for the month she held the Additions Active account in 2010 so Barclays didn't need to consider that sale any further. Barclays paid Mrs B a refund of the account fees she had paid for the mis-sold accounts plus some interest. But it didn't think the Current Account Plus had been mis-sold in 2010 – so Mrs B brought her complaint about that sale to this Service.

One of our adjudicators has looked into Mrs B's complaint. She recommended that it shouldn't be upheld. Mrs B disagrees with that assessment and has asked, as she is perfectly entitled to, that her complaint be decided by an ombudsman.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the account was sold.

I think that the background of Mrs B's dealings with Barclays in the time leading up to the sale of the Current Account Plus is particularly relevant to this complaint. Barclays has agreed that Mrs B was originally mis-sold the account in 2008 – and I've not seen anything to persuade me that her circumstances had materially changed by 2010.

Barclays contact notes appear to suggest that Mrs B took the Additions Active account because of the travel insurance that it offered as a benefit – the notes say she was due to go on holiday later that year. But Mrs B had a number of pre-existing medical conditions and it seems that when she discussed these with the insurance underwriter the additional premium she was asked to pay made the Additions Active account unattractive to her. So it seems Mrs B told Barclays about this problem, and as a result Barclays changed her account back to the Current Account Plus that she is complaining about.

Unfortunately Mrs B can't remember much about what actually happened at the time. So what I have said in the previous paragraph is largely what I think is most likely to have happened based on the evidence that Barclays has given us. But I think it is also supported by what Mrs B can recall – she has told us she wasn't really aware of any changes to her account after taking the Current Account Plus in 2008. So I think that she asked Barclays about travel insurance and was sold the Additions Active account. And when she said it was of no use to her, she was simply returned to the account she previously held.

So it seems to me that it is unlikely that Barclays gave Mrs B enough of a choice about the accounts she could take following the downgrade from the Additions Active account. It seems most likely that the bank simply assumed that she'd want to return to the same account she held beforehand – an account that Barclays has now agreed was mis-sold to her.

I have considered what Barclays has told us about Mrs B using some of the benefits of the Current Account Plus. For example she registered a mobile phone for the phone insurance shortly after the account was sold to her. And she registered some bank cards for the card protection insurance. But I don't think this is enough to show me that Mrs B chose to take the account knowing that she could have a free account instead – Mrs B has been quite clear that she used both of these benefits because a friend explained them to her rather than them being part of a discussion with Barclays that led her to take the account.

In summary, I don't currently think that Barclays did enough to explain to Mrs B that she had a choice whether to take a packaged account, for which she needed to pay a monthly fee, or a free account when it sold the Current Account Plus to her in 2010. So I am currently minded to uphold Mrs B's complaint and direct Barclays to pay her fair compensation.

fair compensation

I have concluded that Barclays failed to give Mrs B a fair choice when it sold the Current Account Plus to her in 2010. Barclays should put her back into the position she would have been in if she had been sold a free account instead. So Barclays should;

- refund and pay Mrs B the fees that she has paid for the Current Account Plus since May 2010; and
- add interest at 8% per year simple on each of the account fees from the date of payment to the date of settlement[†];

If Mrs B has saved money because of a better rate on her overdraft, loan or savings account by having the packaged account and Barclays can show exactly how much Mrs B saved, it may deduct these savings from the amount it pays her. Barclays must explain clearly and simply to Mrs B how it has worked out any savings.

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