

## Complaint

Mrs P complains Barclays Bank UK PLC unfairly closed her current account and held on to funds after it closed. She says they also unfairly registered a marker with the Credit Industry Fraud Avoidance System (CIFAs). She wants them to refund the funds owed to her, remove the marker, reopen her account and assist her with a renewed benefit claim.

## Background

Mrs P was a customer of Barclays and held a current account them. In April 2018 £290,808 was deposited to her account, after which £150,000 was transferred to her husband's account held with a different bank. The funds originated from the encashment of an investment product held by Mrs P's mother. Mrs P says her mother agreed to the transaction.

Shortly after the transactions took place, the firm that held Mrs P's mother's account asked for the funds to be returned. As a result, the remaining funds in Mrs P's account were sent back to her mother's account. Barclays contacted Mrs P's husband's bank and asked for the £150,000 to be returned, which they agreed to do. Eventually all of the £290,808 was remitted back to her mother's account.

Mrs P says the remittance was instigated by persons who have an enduring power of attorney over her mother's affairs. Mrs P says her mother still has capacity and is able to give instructions independent of her attorneys. She says she is taking steps to have the attorneys investigated by the Office of the Public Guardian.

Barclays decided they no longer wanted Mrs P as their customer and gave her notice in May 2018 that they were closing her account with immediate effect. They said the remaining balance on her account was £8.60, and Mrs P could come into branch to withdraw this sum.

Mrs P complained to Barclays. She said they hold £509.72 of her own funds which were separate to the funds remitted back to her mother's account. She said her account shouldn't have been closed as the transaction made by her mother was legitimate. She said she'd received advice from an independent financial advisor in relation to the encashment of the investment product, and they'd sought advice from the Court of Protection and the product provider. The police had also brought both her and her husband in for questioning, and they'd been cleared of any wrongdoing.

Mrs P further stated she'd been unable to open an account elsewhere and thinks this is the result of Barclays registering a marker on the national fraud database operated by CIFAs. Their actions caused important benefit payments to cease and prevented her from encashing funds she holds in an independent savings account.

Barclays said they'd closed Mrs P's account in line with the terms and conditions of her account and wouldn't reopen it. They also said they'd refunded the remaining balance of £8.60 to Mrs P's account. This is the balance that remained after funds were remitted back to Mrs P's mother's account, so they didn't owe her any money.

Unhappy with this response Mrs P brought her complaint to us. An investigator looked into her concerns and decided to uphold her complaint. In summary they found:

- Barclays had not demonstrated they had sufficient evidence to register shown a CIFAs marker.

- 'Claytons Rule' was relevant to how much money remained in Mrs P's account after the remittance of her mother's funds. The rule means generally that money which is first put into an account is deemed to be the first transferred out of an account. So, when Mrs P transferred £150,000 to her husband's account, part of this represented the balance she held in her account prior to the encashment of the investment product held by her mother. As a result, Barclays didn't owe her any money.
- Barclays had correctly followed the terms and conditions of Mrs P's account when closing it, so it wouldn't be appropriate to ask them to reopen the account.

Barclays responded to the investigator's opinion and disagreed that they should remove any marker they registered in relation to Mrs P. However, following discussions with another investigator they've now confirmed they were holding on to £509.72 of funds belonging to Mrs P. They've said they will transfer those funds to an account held by Mrs P, if they are given her account details. An investigator contacted the person representing Mrs P on this complaint to let them know Barclays need this information, but they've yet to receive a reply.

Mrs P didn't respond to the investigator's opinion, but as Barclays disagree on whether the CIFAs marker should be removed, the complaint was passed to me to decide.

I issued a provisional decision on Mrs P's complaint, as I disagreed with the outcome reached by the first investigator. Subject to further commentary or evidence I found Barclays should repay Mrs P the funds they had been holding, plus simple interest at 8% per annum. But I also found that Barclays didn't need to remove the CIFAs marker based on all the information and evidence available to me. I now provide a copy of the findings from my provisional decision, as they are relevant to and form part of this final decision:

### ***"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. Having done so I'm minded not to direct Barclays to remove the CIFAs marker. But, I am minded to direct them to add 8% simple interest per annum to the £509.72 of Mrs P's funds they held on to. I'll explain why.*

*It seems to me there are three main points I need to decide in relation to Mrs P's complaint. The first is whether it was appropriate for Barclays to register a marker on the national fraud database in relation to her. The second is whether it was fair for Barclays to close her account in the manner they did. And, the third is whether Barclays correctly calculated the remaining balance on Mrs P's account after her mother's funds were remitted. I'll address each point in turn.*

### ***The fraud marker***

*Our investigator found that Barclays hadn't demonstrated they'd sufficient evidence to register a marker against Mrs P on the national fraud database operated by CIFAs. CIFAs' current guidelines require evidence to be clear, relevant and rigorous and the investigator understood similar guidelines existed at the time the marker was registered, and Barclays hadn't met them.*

*I've considered very carefully the evidence Barclays relied on to register a marker, and I find what they've presented lacking in terms of the standard CIFAs requires of its members to register a marker. But I've also needed to consider all the wider evidence I've available in order to reach an outcome I think is fair and reasonable. And having done so, I find there is sufficient evidence to meet the standard CIFAs requires.*

*I appreciate Mrs P will be disappointed by my current conclusion. And I want her to know I have considered the evidence from the police she's submitted. But that evidence indicates the police decided not to pursue matters further at the time. And this is a quite a different matter to whether there's enough evidence to meet the evidential standard required for a marker to be registered on the national fraud database.*

*I also don't doubt Mrs P experienced the difficulties she says she did. And I've considered in particular what she's said about her personal circumstances in terms of not being able to receive benefit payments. But based on everything I've seen and all the information I've available, I currently think it's inappropriate to require Barclays to remove the marker they recorded.*

### **The account closure**

*I've listened carefully to what Mrs P has said about the impact the account closure had on her. But Barclays are entitled to terminate their relationship with one of their customers in the same way that one of their customers may choose to no longer bank with them. It's important, however, that they close an account in line with the account terms and conditions. And it's also important that their decision wasn't made for an improper reason.*

*Barclays closed Mrs P's account with immediate effect. So, I've considered whether the qualifying conditions in their terms were met for them to take this action. Having looked at the evidence I've available I'm satisfied several of the those conditions fairly apply to Mrs P's circumstances, so I find the account was closed appropriately and for a legitimate reason. I won't currently be asking them to reopen her account.*

### **Mrs P's remaining account balance**

*Barclay's have reconsidered their position in relation to whether it owed Mrs P any funds. They now agree they held on to £509.72, when this seemingly ought to have been available for Mrs P to withdraw prior to her account closing. They're prepared to transfer this sum to Mrs P. I agree Barclays ought to have allowed her to access this money sooner and they made an error when calculating what her remaining balance should've been after the funds paid by her mother were returned to source.*

*I find, however, that Barclays should also calculate 8% simple interest per annum on top of the amount they owe Mrs P up until the time the money is transferred to her. This is to represent the potential loss she may have experienced, had she had access to the money at the time her account closed."*

After issuing the provisional decision Barclays accepted my findings and asked for payment details from Mrs P to transfer the redress payment. Mrs P however did not respond to the provisional decision and has yet to contact our service to provide the account details to which she would like the payment to be made.

### **My findings**

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And having done so, I've reached the same conclusions I reached in my provisional decision. So, I've decided to uphold Mrs P's complaint in part.

### **Putting things right**

I direct Barclays Bank Plc to pay Mrs P £509.72, plus 8% simple interest per annum on that sum from the date of when her account closed up until the point payment is made. This is contingent on Mrs P giving Barclays details of the account to which she would like payment to be made, or by her providing them another reasonable way to make secure payment to her.

I do not direct Barclays to remove the CIFAs marker they registered against Mrs P on the national fraud database.

### **My final decision**

For the reasons I've given above and detailed further in the findings of my provisional decision (which form part of this decision), I've decided to uphold Mrs P's complaint. I require Barclays Bank Plc to put things right in the manner I've described, unless they have already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 23 May 2020.

Liam King  
**Ombudsman**