

## complaint

Mr and Mrs L's complaint began with a number of their concerns over investment advice, investment management and investment related fees. The matters relate to the services provided by the Barclays Private Client (BPC) and Barclays Wealth (BW) sections of Barclays Bank Plc (Barclays). The complaint features a discretionary managed portfolio (DMP) and an advisory portfolio. Mr and Mrs L's concerns have been the subject of their complaint(s), and of discussions between both parties, since around 2016.

## background

The complaint was referred to this service and one of our adjudicators looked into it. In the main, she concluded as follows:

- For her consideration, Mr and Mrs L's concerns are about fees/charges in both portfolios which they considered to be erroneous; about alleged customer service related failings; about the management and servicing of their holdings allegedly not being carried out as they understood or expected; about the management of the DMP allegedly not being bespoke as they expected.
- The complaints about the *management* of the DMP (using an offshore bond) and the recommendation to transfer Mr and Mrs L's equity and collective investments (and Individual Savings Account (ISA)) to Barclays' Advisory Investment Service (AIS) are the two main issues, from which other matters flow.
- On balance, Mr and Mrs L understood and expected a service in which the DMP, the AIS and their wider assets would be used by Barclays as the basis on which it would deliver a bespoke holistic service; that the DMP would be managed in this context; and that the same would apply to activity in the AIS.
- Evidence suggests that Barclays did not deliver the relevant bespoke and holistic service; instead, and in the offshore bond, it appears that Barclays was guided by its internal portfolio and management models and it managed the bond based on the model it considered suitable for Mr and Mrs L. The bond was not unsuitable but it was not managed with the individual/bespoke management service they understood and expected from Barclays.

The adjudicator proposed £1,000, to Mr and Mrs L, for the trouble and upset caused to them and redress broadly based on a net refund to them of relevant fees/charges – on the basis that they did not receive the service for which the fees/charges were incurred. Mr L sought clarification of some aspects of the adjudicator's view, which she provided. He and Mrs L then confirmed acceptance of the view. Barclays disputed the adjudicator's conclusions.

- It cited specific documentary evidence to support its position.
- It said its service met Mr and Mrs L's objectives and risk profile; the service was clearly explained to them, they understood it and they were given the individual attention they wanted; its work in the DMP and AIS justified its fees/charges.
- It explained the merits of its in house discretionary portfolio management models and of the process related to its execution of discretionary portfolio management.
- It said the adjudicator was misguided to conclude that the existence and application of its in house model(s) meant that Mr and Mrs L did not receive a bespoke service and/or that their holdings were not addressed in a holistic manner; that even though the service was based on one of its models, which it considered suitable, it remained consistent with Mr and Mrs L's objective and risk profile; that they were aware of the

model asset allocation that was to be used; that the bond was regularly reviewed against their overall objectives and reviewed by the BPC in a holistic manner; that it had a different nature of obligations in the AIS because no daily active management took place in this respect and it would only provide recommendations or reviews upon request; overall and in addition, many discussions and meetings took place between both parties which provided Mr and Mrs L with individual attention/service.

- It said the proposal of £1,000 for trouble and upset is unreasonable and/or unreasonably high, given that it has fairly considered and addressed Mr and Mrs L's complaint.

The adjudicator considered Barclays' points and the evidence it referred to, but she was not persuaded to change her conclusions. She retained the view that Barclays' role(s) in the DMP and AIS were based mainly on the application of its in house models, with reference to the cited benchmark(s), instead of the bespoke services Mr and Mrs L understood they would be getting. Barclays repeated its main points and asked for an ombudsman's decision. It also expressed its view of a conflict between the adjudicator's acceptance that the recommended offshore bond was suitable and her conclusion that the fees related to that recommendation should be refunded. The adjudicator said her view is that recommendation of the offshore bond was not unsuitable but Mr and Mrs L did not get the management service they were promised, and the refund is for the latter.

### **my 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 have reached the same conclusion as the adjudicator for broadly the same reasons she provided.

Mr and Mrs L's complaint began, at the outset, with more issues than have presently survived. In straightforward terms, the only matter in dispute between the parties is whether (or not) Barclays' service met the bespoke and holistic service Mr and Mrs L assert they were entitled to. There does not even appear to be a dispute over this entitlement. I do not consider that Barclays' representations have gone as far as to say there was no entitlement to a bespoke holistic service. It appears to accept that such a service was offered to, understood and accepted by Mr and Mrs L – and it asserts that it provided that service.

Barclays has distinguished between its role in the DMP and in the AIS. I understand its point. A distinction should indeed be drawn between a firm's discretionary management service and its advisory service. However, in this case the distinction is defined by the context of what happened in Mr and Mrs L's relationship with Barclays. Both portfolios featured in that relationship and the holistic bespoke service for, at least, the DMP would have included elements of considerations related to – or influence to/from – the AIS and wider assets. This is what such a service, based on the circumstances in this case, ought reasonably to have included. I consider it more probable than not that each portfolio was supposed to be treated in its immediate context as well as in the context of the other portfolio and other wider assets. This provides a basis to consider Barclays' role in a single comprehensive manner, without necessarily prejudicing the afore-mentioned distinction.

The complaint about the AIS mainly asserts the absence or lack of activity within it – in particular, Mr L says their ISAs remained invested in the same European fund for around four years. In another case, Barclays' point about the distinction between the service(s) in both portfolios could be a fair point to apply in this respect. The argument could be that instead of waiting for unsolicited guidance or advice from Barclays, it was for Mr and Mrs L

to request a review of or recommendation for their ISAs if they wished to switch away from the fund(s) they held. The same argument could say it was for them request the same for the AIS portfolio as a whole if they wished to have more activity within it.

However, evidence suggests and supports the conclusion that the expectation was for the discretionary management of the DMP to inform, either mainly or partly, what happened in the AIS. The AIS was distinct but, arguably, it also appears to have been subject to influence from the DMP. In this context, Mr and Mrs L expected bespoke and holistic discretionary management in the DMP and they expected to receive guidance and/or advice in the AIS – not necessarily prompted by requests from them – in terms of investment actions that could have been advisable for reasons related to the DMP or to their wider assets or to their investment plans. Overall and on balance, I am persuaded that Barclays' role in the AIS portfolio held a connection with its role in the DMP.

In terms of the DMP, the problem appears to have been that, arguably, a hybrid arose from Barclays' attempt to provide a bespoke and holistic discretionary management service coupled with its compliance with in house models. Its approach appears to have been to fit the bespoke service into the relevant in house model. The approach also appears to have been to ensure that the latter defined, primarily and/or ultimately, the investment strategy and that the bespoke element took the form of ensuring the selection of a model that matched and was suitable for Mr and Mrs L's investor profile and circumstances. An example of this approach was given in Barclays' own evidence – its complaint response letter in November 2017. Within the letter it said:

*“While I appreciate you hold property outside your portfolio, we believe a modest amount of real estate in a portfolio serves as a portfolio diversifier and inflation hedge.”*

The suggestion above is one of maintaining a particular approach for generic – not client specific – reasons. A bespoke service in which the “bespoke” element was primary, would probably not have taken such an approach. The question of whether (or not) property assets are included in the portfolio would have been mainly based on the investor's overall profile and on what was specifically needed or not needed – not on generic references to potential diversification and hedging benefits from such an inclusion.

It is more likely (than not) that Mr and Mrs L understood and expected the bespoke element to be primary within the service from Barclays. The property investment issue is one they feel particularly strongly about. They expected their pre-existing and substantial exposure to property investments to have been taken on board and to have made a difference in the DMP – whereby little or no investment in property was made within the DMP. Barclays did not appear to share the same view – as evidenced in the quote above – and it considered it more important to adhere to its model in this respect.

Beyond the above example, I am satisfied with the balance of overall evidence that suggests Barclays' DMP service was not the bespoke and holistic service that Mr and Mrs L expected and were led to expect. As the adjudicator noted, there is some evidence of potential for Barclays to undertake a role(s) for a number of their assets at the time – or a pursuit of such potential. I consider their expectation could have arisen in this context. This is not a criticism, Barclays is a going concern and it is entitled to seek and establish new business for its services. I also do not suggest a criticism of its DMP service in isolation. The salient point is that it does not appear to have been the service that Mr and Mrs L wanted, were led to expect and were entitled to expect.

The result appears to have been a service mismatch. As addressed above, the DMP shared a connection with the AIS, so it follows that the service mismatch in the former had an effect on the latter. In other words and in the context of a holistic service, if the DMP was managed in the primarily bespoke way that it should have been managed – which does not appear to have been the case – activity in the AIS would probably have been different.

### **what should Barclays do?**

I am satisfied with the redress proposals made by the adjudicator and with the responses she gave to Barclays' argument that the redress and interest provisions are unfair. I endorse those responses. I also repeat her proposals, this time as an order, as follows:

- Barclays must refund, to Mr and Mrs L, all management fees and charges it has taken from both the discretionary managed offshore bond and the AIS portfolios. This being the fees and charges applied in both portfolios since inception and from time to time. Interest at the rate of 8% simple per year should be added to each relevant fee and charge from the point they were applied and up to the date of settlement.
- Any refund of management fees or charges that have previously been given by Barclays to Mr and Mrs L can be deducted from the calculation at each point that any such refund was given and the accruing interest can be adjusted accordingly in this respect. Only past/previous refunds of management fees or charges can be deducted from the calculation. Any other payment(s) previously made to Mr and Mrs L cannot be deducted.
- Barclays must pay Mr and Mrs L £1,000 for the trouble and upset caused to them in this matter. I am persuaded that the matter, covering a significant total value in assets and extending over a number of years, has caused a level of trouble and upset to them that justifies this award.
- Barclays must provide Mr and Mrs L with a calculation of redress in a clear and simple format.

### **my final decision**

For the reasons given above, I uphold Mr and Mrs L's complaint and I order Barclays Bank Plc to compensate them as detailed above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs L to accept or reject my decision before 31 January 2019.

Roy Kuku  
**ombudsman**