

## **complaint**

Ms S has complained that Barclays Bank plc (“Barclays”) mis-sold her Additions and Additions Plus packaged bank accounts in 2003 and 2005.

## **background**

One of our adjudicators has looked at Ms S’ complaint. He thought Barclays had mis-sold the Additions account but that it hadn’t mis-sold the Additions Plus account. Both Ms S and Barclays disagreed and asked for an ombudsman’s decision.

## **my findings**

I’ve considered all the available evidence and arguments and I’ve decided what I think is fair and reasonable in the circumstances of this complaint. We’ve explained how we handle complaints about packaged bank accounts on our website. And I’ve used this approach to help me decide Ms S’ complaint.

I’ve carefully thought about everything I’ve seen on this complaint. Having done so, I’m partially upholding Ms S’ complaint. I’d like to explain the reasons for my decision.

Ms S says that she doesn’t recall ever agreeing to her account being upgraded. And Barclays hasn’t been able to provide us with any documentation from either sale which seems, at first glance, to back up that Ms S might not have agreed to the upgrades. But I don’t think it’s that surprising there’s so little documentation left from the time as the sale took place such a long time ago – more than a decade. Equally Barclays isn’t obliged to keep all its records indefinitely.

So I haven’t drawn any negative conclusions about the sales just because Barclays has been unable to provide signed copies of account application forms – especially as authorisation can be provided by means other than signed application forms. I’ve instead looked at everything else I have and decided what I think is most likely to have happened at the respective times.

*why I think that the Additions account was mis-sold to Ms S.*

As well as being unable to provide any positive confirmation of Ms S having agreed to the Additions account, Barclays hasn’t been able to tell me anything at all about how any sale took place. But it has also said that although the sales channel is unknown it would’ve obtained Ms S’ agreement before changing account and it found no evidence to suggest the account was changed without Ms S’ permission. Finally it has said its argument Ms S most likely agreed to the account is supported by her need for the main benefits.

I’ve carefully thought about what Barclays has said. But I disagree with its arguments and I’d like to explain why.

Firstly, I haven’t seen anything in the information which definitively confirms Ms S agreed to this account. For example she didn’t actively register for or use any of the benefits. And secondly I also think that Barclays is somewhat overstating Ms S’ need (and any want) for the benefits on the Additions account.

To explain, when Ms S' account was switched the main benefits included on the Additions account were preferential overdraft terms, breakdown cover and card protection. In order to benefit from the card protection benefit she would've had to register for it. And as I've already explained, I've not seen anything to suggest that Ms S registered for this during the time she had the Additions account.

Equally while Ms S did have an overdraft, I don't think she was using it enough in the period leading up to the upgrade such that it's reasonable to conclude she agreed to upgrade for the preferential overdraft terms. Indeed Ms S' use of her overdraft actually substantially decreased in the year following the account switch. And these actions are inconsistent with someone who upgraded because they wanted the preferential terms.

Finally while Ms S drove and had access to a car, she's says she purchased her car in 2003 and it was under a warranty which included breakdown cover. And although I accept this isn't conclusive evidence Ms S didn't want or need breakdown cover (as not having to make a claim doesn't automatically mean someone wasn't relying on insurance), Ms S' failure to call out the provider does appear to support what she's told us. So taking all of this together, I have to question why Ms S would've agreed to upgrade in these circumstances.

All of this together with Barclays' failure to provide me with anything at all to support its argument it obtained Ms S' agreement before upgrading her account, means that I've not seen enough here to persuade me that it's most likely Ms S did provide her informed consent *before* her account was switched to an Additions account. As this is the case, I think that Ms S was mis-sold the Additions account by Barclays and it needs to put things right.

*why I don't think that the Additions Plus account was mis-sold to Ms S.*

Barclays also hasn't been able to tell us much about how the Additions Plus account was sold to Ms S. So the backdrop to this sale is similar to when the switch to the Additions account took place. That said, I think that there are a couple of crucial difference in this sale.

Firstly the information I've seen suggests Ms S registered for the card protection benefit shortly after the switch to the Additions Plus account took place. Although this was a benefit that was available to Ms S on her previous Additions account, the close proximity of this taking place to the switch leads me to think that Ms S was reminded about having this cover when she was sold the Additions Plus. Ms S' registration for this benefit suggests she knew she had an account including this benefit. And I think she would've queried why she had it, rather than register for it, if her account had been upgraded without her permission.

I'm also mindful that the headline benefit of the Additions Plus account was travel insurance. And Ms S travelled shortly after her account was changed. I've seen what Ms S has said about purchasing this cover elsewhere. But I'm afraid the information provided doesn't support this. So unlike the Additions account, I can see a clear reason why Ms S might've thought the Additions Plus account might have been worth her while having.

Equally I haven't seen any particular problems about accounts being automatically changed or as a result of consumers being misled into thinking they had no choice in 2005 either. This together with what I've said above leads me to think it's most *likely* Ms S agreed to this upgrade but has since – quite understandably – forgotten about doing so – especially bearing in mind what she's most likely heard about packaged accounts in general since.

I'd also add that Ms S not remembering much about what happened at the time of the sale is different from her account having been upgraded without her knowledge, or her not being given a choice in the first place. And, for the reasons given above, I don't think I can fairly say that is what happened here.

So overall having thought about everything I've seen, I think it's likely Ms S was given a clear choice on upgrading. And I think it's most likely she chose to upgrade to the Additions Plus account as she thought, at the time at least, the benefits included might prove useful to her.

As I've previously explained Barclays hasn't been able to tell me much about what happened at the time of sale. And Ms S hasn't said much about the sale either. So I simply don't have enough here to be able to safely say the Additions Plus account was recommended to Ms S. And Barclays didn't have to check if the account was right for Ms S. Instead it was up to Ms S to decide this for herself by thinking about what it came with and her circumstances at the time. But Barclays did have to provide Ms S with clear enough information to do this.

I do think it's likely Ms S was told about the main benefits included on the account – after all Barclays was trying to get her to pay for it when in all likelihood she knew she didn't have to. And telling her what she'd get for the fee was probably the best way to do this.

The headline benefit on the Additions Plus account was travel insurance. And it looks like Ms S travelled shortly afterwards. As Ms S appears to have been within the age limit for the policy, was a United Kingdom resident and was registered with a doctor, I've seen no obvious reason why she couldn't have made a claim on the policy if she needed to. So I think that Ms S could've used this cover and this may well have been the reason why she most likely agreed to the account in the first place. Ms S might not have ended up travelling much afterwards. But that doesn't mean she didn't have a need for this cover at the time of the sale. And Ms S not travelling too often after the sale may even be the reason she decided to switch to a free account when she did.

The account also included preferential overdraft terms, breakdown cover and card protection. I've already explained that Ms S registered for the card protection. And this suggests she wanted this cover, relied on it and most likely found having it useful. Equally as the sale of this account took place two years after the Additions upgrade, Ms S also could've found the breakdown cover useful once the warranty on her car ran out.

Finally the preferential overdraft terms meant Ms S paid less in interest when using her overdraft than she otherwise would've if she'd had a free account. Ms S' account ledgers also show that she used her overdraft much more heavily and more regularly than she did after her account had been switched to an Additions one too. So I think the preferential overdraft terms could've been useful too.

Overall I think it's most likely Ms S was interested in and could've used the main benefits on the Additions Plus account. So while I don't think she was told everything she needed to about all the ins and outs of the package, I do think she received enough to know and understand what she was agreeing to. And as I haven't seen anything in her circumstances to suggest she would've been affected by any of the main limitations or exclusions on the benefits, I don't think clearer information would've stopped her agreeing to the account either.

Ms S may now, with the benefit of hindsight, believe she hasn't benefitted from the Additions Plus account as much as she'd hoped and expected to when she initially took it out. And given what she might've read and heard about packaged bank accounts in general and I've upheld her complaint about her Additions account, I can understand why she might believe this account was also mis-sold.

But I think it's likely that Ms S chose to take this account having been told what it included and because she was interested in, at least, some of the benefits. So although Ms S may now think that it didn't prove to be value for money over the period of time she had it, I don't think the Additions Plus account was mis-sold to her.

Having carefully thought about everything, I'm upholding Ms S' complaint about the sale of her Additions account. But I'm not upholding her complaint about the sale of Ms S' Additions Plus account.

### **what I think Barclays should do to put things right**

To put things right, Barclays should put Ms S back into the position she would've have been in, if she hadn't taken out the Additions account. So Barclays should:

- refund and pay Ms S the fees she paid for the Additions account; and
- add interest at 8% per year simple on each of the above amounts from the date she paid the fee to the date of settlement<sup>†</sup>;

If Barclays is able to work out any *additional* savings Ms S has made from holding the Additions account **and** it can show these calculations to her, it may, if it wants, deduct this additional saving from any compensation that is paid.

<sup>†</sup>HM Revenue & Customs requires Barclays to take off tax from this interest. Barclays must give Ms S a certificate showing how much tax it's taken off if she asks for one.

### **my decision**

For the reasons given above, I'm partially upholding Ms S' complaint. Barclays Bank plc should pay Ms S redress as set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms S to accept or reject my decision before 13 November 2017.

Jeshen Narayanan  
**ombudsman**