

complaint

Mr and Mrs U complain about the actions of Barclays Bank Plc in that they say that the bank racially profiled them and directly caused Mr U to be arrested.

background

Mr and Mrs U originally referred a complaint here about the bank's treatment of their account. That complaint was subject to determination by an ombudsman. But they were able to later present new information, obtained from the Independent Police Complaints Commission ("IPCC"), which hadn't been considered by the ombudsman.

Therefore, our adjudicator has now considered the issue of Barclays' involvement in Mr U's arrest, taking into account that new evidence. Mr U is unhappy that, he says, the bank informed the police he'd be withdrawing cash from his account and, as a result, he was arrested with the cash being confiscated.

The police later confirmed that no further action would be taken against Mr U and his funds were returned but he's unhappy about the bank's role in those events.

Initially, the adjudicator said she wasn't aware Barclays had informed the police about Mr U's withdrawal. And the ombudsman, in that previous determination, said there was no evidence that Barclays told the police about the withdrawal. It was explained to Mr U that Barclays has no power to arrange for an arrest to be made, the decision to do that being taken by the police. Mr U was referred to them to pursue concerns about the arrest.

Mr U did this and received a report from the IPCC that said:

"...this was a pre-planned job where information had been received that there were large amounts of money going through his account, in numerous third party transfers and cash. These appeared suspicious as they were in addition to what appeared to be legitimate wages, and were removed in cash very quickly after depositing. These amounts raised suspicions with the bank who have a duty to contact police.

The officers acted on information passed from outside agencies (bank), and were given a briefing prior to the operation in relation to arresting Mr U on suspicion of Money Laundering".

Mr U felt Barclays had lied about its involvement in his arrest. And as his banker of many years, it knew full well his sources of income. Mr U explained how the arrest had gone on to cause him inconvenience, financial loss and difficulty as well as problems with his credit file.

The adjudicator said that account terms and conditions set out what information Barclays holds about its customers; where this information comes from; what the information is used for; and who Barclays shares information with. And they say Barclays is allowed to share information with various bodies including "UK and Overseas regulators and authorities in connection with their duties (such as crime prevention)".

She therefore considered that Barclays wasn't breaching account terms and conditions when, as confirmed by the IPCC, information - that may ultimately have led to the arrest - originally came from Barclays.

But, additionally, Barclays has legal and regulatory obligations to comply with and it can't always be as transparent about its procedures - and how it meets its obligations - as Mr U may like. And the adjudicator wasn't satisfied that she could say Barclays had failed to follow its procedures correctly or act in line with its obligations.

She also couldn't see any evidence of Barclays having acted as it did because of Mr U's gender or nationality and didn't conclude there was any racial profiling involved.

Finally, while the police may have taken no further action against Mr U, and returned him his money, after Mr U's arrest and the police's enquiries, it was up to the police to decide to arrest Mr U and confiscate his funds. And the IPCC report concluded that the police followed its procedures correctly and the arrest wasn't unlawful or racially motivated.

As the adjudicator didn't think Barclays had done anything wrong, she didn't recommend it should apologise to Mr and Mrs U, as was asked for, or pay compensation to them. And the credit file accurately reflected how Mr U had conducted his credit arrangements – even if he felt that the arrest had hindered his ability to maintain loan repayments – so she didn't ask Barclays to alter this.

Mr and Mrs U have asked for their complaint to be reviewed. They maintain that Barclays 'had Mr U arrested' and this wasn't justified. They say Barclays 'orchestrated' the arrest. And even if Barclays do have obligations, they should comply with them, exercising suitable care. They remain of the view that Barclays are liable for the impact that Mr U's arrest caused.

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 agree with the findings and conclusions of the adjudicator.

I don't doubt that Barclays' information sharing was a link in a chain of events that later included the arrest of Mr U. But there is no evidence that Barclays orchestrated the arrest and I'm satisfied that the arrest made was the decision of the police, rather than the bank.

And as for the bank's sharing of the information, as the adjudicator has said, a bank is expected to adopt a set of procedures for administering an account and in how it manages the banking relationship with a customer. But the bank has such procedures in place and I can't specify exactly what they should be. Also, Barclays has legal and regulatory obligations to observe when administering accounts.

Here, I also am not aware that Barclays failed to follow its own procedures, that it breached the account terms and conditions or that it wasn't appropriately complying with its obligations. The adjudicator referred to Barclays being allowed to share information with various bodies including "UK and Overseas regulators and authorities in connection with their duties (such as crime prevention)". And there is no evidence that it did any more than this and in respect of information it was entitled to share.

In short, I don't consider that I can say Barclays acted incorrectly in sharing the information it did with the external parties it did – or that it would be fair and reasonable to say that Barclays was responsible for the arrest of Mr U, and therefore the resulting impact on Mr U of the arrest.

In light of everything I've said, I don't require Barclays to pay compensation to Mr and Mrs U or take any other action. I note that Barclays offered Mr and Mrs U £100 in recognition of it failing to properly follow its complaints procedure. But Mr and Mrs U have clearly stated that they don't wish to receive this payment and as it isn't offered for the subject matter of the complaint that they've asked me to determine, I won't incorporate that offer into this decision.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs U to accept or reject my decision before 4 October 2016.

Ray Neighbour
ombudsman