

## **complaint**

Mr P complains that Barclays Bank Plc hasn't compensated him enough for the poor service he has experienced when trying to deal with his bank accounts and his overdraft. He feels it's been unwilling to help him.

Mr P is unhappy and says he's suffered distress and loss because he was given the wrong address to send important documents to; was unable to set up a repayment plan because of poor communication between departments; and despite being told collections activity would be put on hold while his complaint was ongoing, Barclays closed his accounts removed his overdraft and registered a default.

Mr P is also unhappy with the charges Barclays has made to the account, which he says are unfair.

## **background**

Both parties have made detailed submissions in relation to this complaint. I think the adjudicator set out the background leading up to this complaint in sufficient detail. So while I've carefully read and considered everything both parties have submitted, I only include a brief summary here.

Mr P has two accounts with Barclays - both with overdrafts. From what Mr P has told us and from Barclays' records, there's been much correspondence and communication over an extensive period of time between the two parties about Mr P's account and in relation to his financial difficulty. I don't intend to set this all out here.

The history goes back to 2014. But the events complained about here are from 2016.

Mr P's complaint mainly stems from the point at which he was asked to complete an income and expenditure form, which Barclays needed so it could look to arrange a repayment plan / come to an arrangement for repayment of his overdraft - his account had gone back to Barclays' collections department at this stage because Mr P had exceeded his overdraft limit.

Barclays gave Mr P the wrong address to post the form to and this resulted in a delay in trying to sort things out and Mr P says he incurred further bank charges.

During the following months Mr P complained to Barclays about the problems he had encountered trying to sort things out - he says he was referred to the collections department but they said they couldn't help him while a complaint was ongoing. Mr P says during the course of his complaint his overdraft was removed too.

Barclays responded to Mr P's complaint and acknowledged it had let him down. It apologised for giving him the wrong address to send the income and expenditure form to and said that when it was received, the missing information from the form could've been obtained from him by phone rather than asking him for another completed form. It acknowledged this caused a delay in discussing an arrangement with him and so it agreed to refund / waive charges in excess of £600.

It went on to explain that when a complaint is ongoing, collections activity is usually suspended. And this is the reason its collections department wouldn't discuss a repayment arrangement with Mr P when he phoned. It said it had closed the complaint to allow collections to discuss matters with Mr P and had arranged for them to speak with him.

Finally it explained this same relationship between its complaints department and collections department caused Mr P's overdraft to be removed. It said the collections department would discuss this with him and it offered him £175 for the distress and poor service he'd received.

Mr P complained again because he says he was told by the collections department that it would look to refund him two years' worth of charges. Barclays replied and said it wouldn't do this because the charges were made in line with the account terms and conditions and the Supreme Court ruling in 2009 said these bank charges aren't unfair.

It went on to say that its collections department had tried to discuss repayment plans with Mr P but he didn't want to do this.

Shortly after this, Mr P's bank accounts were closed and a default registered on his credit file. Mr P considered his complaint was still ongoing, so Barclays should've suspended any collections activity. Barclays apologised and it reopened his account.

In considering the points raised in bringing his complaint to us, the adjudicator said, in summary, she thought the bank charges had been applied correctly and in line with the account terms and conditions. She said for the initial mistakes Barclays made, the amount it compensated Mr P was fair. But she said Barclays shouldn't have removed his overdraft, closed his accounts and registered a default when it said it would pause on collections activity while a complaint was still ongoing.

She said she thought the communication between Barclays' collections and complaints departments could've been better – in particular letting Mr P know what would happen if he didn't bring his account in order within a certain timeframe. She recommended Barclays pay Mr P £200 for the distress and inconvenience caused by this. And said Barclays should reinstate Mr P's overdraft and remove the default – this wouldn't have happened but for the error.

Barclays agreed. But Mr P then put forward a counter offer as a suggested settlement. He asked for interest to be suspended for a period of time to give him breathing space and offered a monthly repayment amount to pay off his overdraft.

In response to Mr P's offer Barclays said that, once a repayment plan is agreed between its collections department and Mr P, it would suspend all interest. It also said it would remove the default from Mr P's credit file, but only once the account(s) were brought back in order or an agreement reached for repayment. Barclays also gave an example of the type of arrangement it might agree to in the form of a loan.

Mr P doesn't agree this is a fair way to settle the complaint and has asked for an ombudsman to decide things.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Firstly, because Mr P is in some financial difficulty, Barclays is under a duty to act positively and sympathetically towards him. But this doesn't mean it has to follow a particular course of action, for example, by refunding all charges or writing off the debt. Each case is different depending on the individual circumstances. I've borne this in mind in my consideration of this complaint.

It's clear to me that Mr P has encountered problems in trying to sort things out with Barclays. And I think a contributory factor has been the poor communication and apparent lack of coordination between its collections and complaints department in dealing with Mr P. I think this is something Barclays might want to reflect on more generally. But Barclays has acknowledged it hasn't got everything right in Mr P's case. So what I need to decide is whether what it has already done and what it has agreed to do following our involvement is a fair and reasonable way to settle things.

Barclays has already paid Mr P £175 for the distress and inconvenience caused by its initial poor service and refunded or cancelled charges of more than £600. I think this is fair compensation for the initial errors Barclays made – it's acknowledged the impact of the mistake on Mr P and not charged him for the period when an arrangement could have been discussed.

I can see Mr P says he wants his entire bank charges refunded. But as the adjudicator told Mr P, Barclays is entitled to apply these charges in line with the account terms and conditions. And it doesn't have to refund them all because Mr P is in some financial difficulty as I said above. Mr P has also said he thinks the charges Barclays has made to his account are unfair. But these charges can't be challenged on the grounds they are unfair – a Supreme Court ruling in 2009 on this matter said as much.

Turning to the latter errors - it's clear to me (and Barclays has agreed) that it was wrong of it to close Mr P's account and register a default on his credit file. Barclays has rectified the closure and I think £200 in recognition of the distress and upset caused to Mr P by this is fair compensation.

More importantly and to resolve things overall I think it's important that Mr P finds and agrees a way forward with Barclays to get his finances on track. And to do this he needs to discuss repayment options with Barclays' collections department. They are the ones who can discuss and agree things – I don't think it's appropriate or efficient to try and negotiate or agree the specifics of this via this complaint.

I can see Barclays has tried to discuss repayment options with Mr P over time, but Mr P has refused – he wants all charges refunded before he discusses this. But as I've said above, Barclays doesn't have to do this and I'm not going to instruct it to do so.

I also think it's fair that Mr P completes an income and expenditure form as part of an arrangement discussion as Barclays has asked - I think it's important to demonstrate to both Barclays and to Mr P himself that any agreement is affordable and can be sustained. I think this is a fair and reasonable way to go about achieving this.

Furthermore I think Barclays' offer to only remove the default from Mr P's credit file once an agreement is reached is fair in this case. I say this because if it is removed now and then an agreement isn't sought and ultimately Mr P defaults again resulting in Barclays registering another default, this would be detrimental to him - it would prolong the effect on his credit file and likely prolong his difficulty in obtaining credit in the future.

I understand Mr P isn't keen on Barclays suggested offer to repay his overdraft by means of a structured loan – he offered something different in his counter offer to Barclays. But I can't force Barclays to accept a certain repayment plan – that's a lending decision it needs to take after discussion with Mr P. But as I said above, I expect Barclays to help Mr P and treat him positively and sympathetically.

In closing, I understand that it's an inconvenience for Mr P to have to phone Barclays and complete the income and expenditure form. But as I've said above, I don't think it's unfair or unreasonable of Barclays to want to deal with matters this way. And it's what's needed to allow Barclays to help Mr P and for things to move forward for him.

### **my final decision**

For the reasons I've set out above, I've decided that Barclays Bank Plc did not act fairly and reasonably towards Mr P when it wrongly closed his accounts and registered a default on his credit file. Barclays has already reopened the account and re-applied the overdraft facility, so in recognition of the distress and inconvenience caused, I direct it to pay Mr P £200. Mr P should tell Barclays how and where this should be paid.

In relation to the removal of the default, I direct Barclays Bank Plc to remove this from Mr P's credit file. But to be fair and reasonable to both Barclays Bank Plc and Mr P, Barclays Bank Plc should only do this when Mr P has come to an arrangement to bring the account(s) back in order, or an agreement for repayment with Barclays Bank Plc has been reached – if this hasn't been done already.

I also think Barclays Bank Plc's offer to help Mr P going forward is fair and reasonable - once a repayment plan has been agreed interest charges will be suspended. But I also think it's fair and reasonable for Mr P to discuss any arrangement with Barclays' Collection Team. And for him to complete the required income and expenditure form as Barclays Bank Plc requires for this to happen.

I make no other award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 October 2017.

Paul Featherstone  
**ombudsman**