

## **complaint**

Mr and Mrs E complain that Barclays Stockbrokers Limited delayed the transfer of their account to a new broker.

## **background**

In 2017 Mr and Mrs E decided to transfer their joint account holdings with Barclays to an account in Mrs E's name with her SIPP provider. Mr E says he decided to transfer equities first as there were only two holdings, and then to transfer the fixed interest holdings they had. Barclays accepted the transfer was delayed. It offered £100 for lost interest, £200 for the inconvenience caused and £100 for the delay in dealing with the complaint.

I issued a provisional decision a copy of which is attached and forms part of this final decision. In short I made the following findings.

- Barclays had provided no evidence that six to eight weeks was the normal timescale for transfer as it had suggested.
- It was reasonable to use four to six weeks as the normal timescale for transfer.
- Because of the issues that arose with its SmartInvestor platform there was an increased amount of work which meant the normal timescales couldn't be kept to.
- It was reasonable to use 27 October 2017 as Barclays had done as the date the last holding should've been transferred -10 weeks from the start of the transfer process.
- If there had been no delay all but one holding would've transferred by 26 September 2017 and Barclays isn't responsible for the additional time taken to transfer the last holding.
- Barclays should pay:
  - Interest of £164 for delay in payment unless it shows the payment was made earlier, on 8 November 2017 in which case it should pay £135.
  - £134 for additional tax payable unless Mrs E shows she wouldn't have incurred any tax in which case it should pay £268.
  - £300 for the distress and inconvenience caused to Mr and Mrs E.
  - £100 for the delay in dealing with the complaint.

I gave both parties the opportunity of responding and providing any further information they wanted me to consider before making my final decision. Mr E said he had nothing further to add and it was time to draw a line under the matter. Barclays said it had offered £400 for distress and inconvenience and would stick to that figure rather than the £300 I had suggested but didn't otherwise disagree with my provisional decision or provide any further information.

## **my findings**

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

Given neither party has provided any further information that would lead me to change my provisional decision my findings remain as set out in that decision. In short Barclays delayed the transfer of Mr and Mrs E's account and has to pay the redress I set out.

I note Barclays has said that it will stand by a distress and inconvenience payment of £400 rather than the £300 I said it should pay for the delay in transfer. This is for it to decide and I have not awarded £400. But I would point out that the £300 doesn't include the £100 Barclays agreed to pay for the delay in dealing with the complaint itself which is an additional amount payable.

**my final decision**

I uphold this complaint for the reasons set out above and in my provisional decision. Barclays Stockbrokers Limited has to pay the redress I have set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs E to accept or reject my decision before 1 July 2019.

Philip Gibbons  
**ombudsman**

## **COPY PROVISIONAL DECISION**

### **complaint**

Mr and Mrs E complain that Barclays Stockbrokers Limited delayed the transfer of their account to a new broker.

### **background**

In 2017 Mr and Mrs E decided to transfer their joint account holdings with Barclays to an account in Mrs E's name with her SIPP provider. Mr E says he decided to transfer equities first as there were only two holdings, and then to transfer the fixed interest holdings they had.

The transfer of the equities took around nine weeks. When they first started the transfer Mr E said the estimated time for completion was only four weeks but Barclays then said it could take up to six weeks, and then eight weeks. The transfer of the fixed interest holdings started on 17 August 2017 and completed on 3 January 2018.

Barclays accepted the transfer could've been quicker and that the communication with Mr and Mrs E could've been better. It said it received the transfer request on 18 August 2017 and would expect to complete this within eight weeks. But that it wasn't completed until 14 December 2017. Barclays accepted that Mr and Mrs E couldn't trade online but wasn't willing to pay any trading losses because they could've traded over the phone if they wanted.

Barclays said there was an issue with Mr and Mrs E's address but that this was identified on 19 September 2017 and rectified two days later, so it didn't significantly increase the time taken to transfer. Barclays offered £100 for lost interest based on a rate of 8% simple per annum for the period of delay between the latest the transfer should've completed and when it did complete. In addition it offered £100 for the delay in responding to the complaint and £200 for the inconvenience caused – so a total of £400.

One of our investigators considered the complaint and initially thought the offer made by Barclays was reasonable.

But the investigator then gave a further opinion, after further comments from Mr E, in which he said he didn't think the amount offered by Barclays fully compensated Mr and Mrs E. He said Barclays should pay the additional tax Mr E had to pay for dividends and interest payments that should've been in Mrs E's name only. He also thought it should recalculate interest payable plus 8% compensatory interest as well as pay the £400 previously offered for distress and inconvenience caused.

Mr E said he agreed with the investigator's opinion in principle subject to Barclays's calculations.

Barclays didn't agree with the investigator's further opinion. It referred to the timeline of the transfer and made the following points:

- It didn't agree the transfer should've been completed by 13 October 2017 as it couldn't start the transfer until it had acceptance from the new broker. But it accepted there was an initial delay and said it could've been completed by the 27 October 2017.
- Its normal timescale for transfer from a Barclays Stockbroker account is six to eight weeks and despite a thorough investigation it could find no record of Mr E being told the transfer would take four weeks.
- There was no need to re-register the shares before transfer and this isn't a service it would've carried out. It would be for the new broker to do this.
- The tax figure Mr E has used of £730 - which he says has been incurred because of the delay in transfer - is wrong even if all payments should've been made to Mrs E. Giving Mr and Mrs E the benefit of the doubt only two payments were made which should have been paid to Mrs E only. These amounted to a total of £1,337.50

- The tax payable of £1,337 if it had been paid only to Mrs E would've been £267.50 compared to the tax payable on joint receipt of £401.25. It was willing to pay the difference of £133.75.
- It had previously offered interest of £100 based on interest at 8% for a 25 day period of delay but it is willing to pay interest of £135.68 based on interest at 8% over 34 days.
- It stands by its offer of £100 for delay in dealing with the complaint and £200 for the distress and inconvenience caused.
- So it is willing to offer a total of £569.43.

The investigator provided Barclays' response to Mr E who didn't agree with its offer and the investigator didn't change his opinion so the matter has been referred to me for review.

### **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.

This complaint revolves around the period of time that it took to transfer Mr and Mrs E's holdings from Barclays to a new broker. Barclays accepts there was a period of delay but the amount of delay and the redress payable for this isn't agreed.

#### *When should the transfer have been completed?*

Mr E has said he was told the transfer would take four weeks. He accepts he has no evidence to support this and Barclays has said this isn't the timescale for transfer of holdings for an account such as Mr and Mrs E's.

The only timescale I have seen in the terms and conditions Barclays has provided, dated March 2017, is 30 calendar days to transfer an ISA account. The terms state that the ISA regulations allow for this period - although the 'regulations' actually refer to 30 *working* days with a shorter timescale for cash-ISA transfers. So Barclays appear to allow a shorter period for ISA transfers than the industry as a whole. This is still not four weeks and I think it is unlikely Barclays had a shorter timescale for non-ISA accounts.

That doesn't mean Mr E has said something he knows to be untrue or has misremembered. But if he was told this I think it is more likely than not to have been a mistake and I don't think it is something Barclays is bound by.

But I have also seen no evidence that the *normal* timescale for transfers such as that of Mr and Mrs E is six to eight weeks. In response to my request for evidence it referred to its SmartInvestor brochure which indicates that typical transfer for non-cash holdings is four to six weeks but could take up to 12 weeks in times of high demand or with complex products -so there is reference to a minimum four week timescale within the brochure which might be what he was told.

Barclays has provided no evidence of six to eight weeks being the normal timescale for transfer of any account despite my request for it to provide this, and its explanation of the timescales has been contradictory. I think it is reasonable to use four to six weeks as a reasonable *normal* time for transfer.

But what happened in the second part of 2017 meant Barclays wasn't able to keep to normal timescales. Barclays explained in its email to me that it was quoting six to eight weeks to customers because it had already received increased volumes of requests as a result of the change to its new SmartInvestor platform.

I accept Barclays did have to increase the expected timescale for transfer because it wasn't coping with the volume of transfers within four to six weeks. I acknowledge Barclays isn't blameless for the problems that arose. But I think an additional couple of weeks isn't unreasonable given the increased volume of work it had to deal with at the time.

Barclays has calculated that the transfer could've been completed by 27 October 2017 instead of when it did complete on 14 December 2017. This is based on it taking 41 days to complete the transfer once it had received acceptance of the transfer from the new broker.

27 October 2017 is 10 weeks, not eight, from the date when Mr and Mrs E requested the transfer. But 27 October allows for the time taken to transfer the last holding which took a bit more time to complete. The rest of the holdings had been transferred more than four weeks before this and well within eight weeks. In the circumstances I don't think Barclays proposed timescale is unreasonable.

If there had been no delay it would've meant that all but one holding would've been transferred by around 26 September 2018 based on Barclays timescale - which would only have been around five and a half weeks from when the transfer request was made and is a reasonable time for transfer. I'm not satisfied that Barclays delayed the transfer of the last holding.

*What were the consequences of delay?*

Mr and Mrs E didn't have online access to their account whilst the transfer was in progress, so couldn't make any trades online. But it was possible to trade over the telephone, as Barclays has pointed out. Its possible there would also have been issues with this given the significant overall problems Barclays was having at the time. But I have not seen any evidence Mr and Mrs E were prevented from making any specific trades because they didn't have online access.

Mr and Mrs E were not able to do anything with the money in their account of £18,208 until this had been transferred. Barclays has said this was on 8 November 2018 but I think it is referring to when the first holdings were transferred. Mr E has said the money was transferred on 13 November 2017 which is the date I have used.

In its response to the investigator's revised opinion Barclays offered to pay interest at 8% for a period of 35 days, amounting to £135 based on its calculation of when the money could've been transferred using its timescale – which it said would've been 21 September 2017. Given I have said the transfer date was 13 November 2017 I think the period of delay is around 41 days so I think Barclays should pay interest at 8% for that period which amounts to (rounded up) £164. If I am wrong and the date was actually 8 November 2017 then I agree Barclays' figure of £135.

Mr and Mrs E were transferring into an account in Mrs E's name only for tax reasons. Mr E argues that they have ended up paying tax on dividends/interest at his highest rate of 40% when this should've been at Mrs E's rate of 20% if the transfer hadn't been delayed.

He calculated the total dividend/interest payment as £3,638 and that £727 was payable at 40% on half of this which he thought Barclays should be responsible for. I don't think his calculation is necessarily right for a number of reasons. I note that he has said that the tax position is elementary. But I don't think that it is necessarily straightforward.

My understanding is that the payments were a combination of interest and dividend payments. In 2017/2018 as well as personal allowances there was a dividend allowance (£5,000 for higher rate taxpayers and £500 for basic rate taxpayers) and a personal savings allowance (£500 for higher rate taxpayers and £1,000 for basic rate taxpayers).

Also my understanding is that any tax that was payable on dividends would've been at 32.5%, not 40%, for a higher rate taxpayer, and 7.5% for a basic rate taxpayer.

Barclays has offered to pay additional tax but only for the last two payments received which amounted to £1337.50. I think these were interest payments. If half of the payments were taxed at Mr E's rate and half at Mrs E's the total tax payable is £401.25.

If the transfer hadn't been delayed and these payments were in Mrs E's name only she would've paid £267.50. Barclays has offered to pay the difference of £133.75. But this is based on Mrs E having to

pay tax on these payments. It is possible she wouldn't have had to because of the allowances she was entitled to. If there is evidence she didn't have to pay tax on these payments then the amount payable is £267.50.

Of the other payments one of the payments amounting to £625 was due on 20 September 2017, although it was paid on 29 September 2017. I agree with Barclays that as this was due to be paid before the transfer of the holding would've taken place, but for the delay, this shouldn't be taken into account.

Barclays has explained that it hasn't allowed for any additional tax payable by Mr and Mrs E for the other three holdings because these would've been taxable at Mr E's tax rate anyway. It says this is because who pays tax on the interest/dividend is determined by the 'ex dividend' date, which determines who is the owner of the holding for the purposes of the payment of interest/dividend.

I agree that the date of payment does not necessarily determine who is entitled to the interest/dividend and who then is liable to pay tax. I'm not satisfied that the relevant date is the date of payment. Subject to evidence showing that only Mrs E would've been entitled to the payments if there hadn't been a delay I'm not persuaded any additional tax has been paid on the three holdings as a result of the delay.

*What should Barclays do to put things right?*

I think Barclays should pay interest of £164 on the delay in payment of the money in the account unless it shows the date the money was paid was 8 November 2017 in which case it should pay £135. I also think it should pay £134 for the tax payable on the last two payments that would not otherwise have been payable but for the delay - unless Mrs E provides evidence she wouldn't have had to pay any tax in which case I think Barclays should pay £268.

I have considered what amount should be paid for distress and inconvenience. Barclays offered £200 for the impact of the delay. I think that is a reasonable amount if only Mr E was complaining. But I'm mindful that this is a joint complaint, and although Mr E has been responsible for corresponding with Barclays I'm not satisfied that distress and inconvenience wasn't caused to both of them because of the delay. I think a total of £300 is a reasonable amount in the circumstances. Barclays also offered a further £100 for the delay in dealing with the complaint.

### **my provisional decision**

I uphold this complaint for the reason I have explained. Barclays Stockbrokers Limited has to pay the redress as I have set out above.

Philip Gibbons  
**ombudsman**