

The complaint

Mr and Mrs S's complaint is about the delays caused to the transfer of their investments held within their joint investment account linked to their respective Self Invested Personal Pension (SIPP), which they say Barclays Bank UK PLC is to blame for.

What happened

I issued a provisional decision on this case. I set out the background to this complaint which I won't repeat again in full here but will instead focus on the reasons for my decision.

In summary, the following background is relevant to this decision:

- Mr and Mrs S held a separate SIPP with a business I'll refer to as 'J' which they wanted to transfer to a new provider. I'll refer to the new SIPP provider as 'T'. Mr and Mrs S held a joint investment account that was linked to both their respective SIPPs. Both SIPPs were with J. The investment account was with Barclays and was called a Pension Trader Account (PTA).
- The way the PTA worked was that J was the administrator and either Mr or Mrs S could communicate directly with Barclays, including to arrange their own investments. However, any transfer instructions and any account change restrictions had to come directly from J.
- In 2013, Mr and Mrs S requested a transfer to T. However, after making several requests for information from T, and receiving no response, Barclays cancelled the transfer.
- In 2015, Barclays decided to discontinue PTA's. J sent a letter from Barclays to Mr and Mrs S's adviser on 25 July 2015 informing them of Barclay's decision. Barclay's letter said PTA clients should make new arrangements by 31 July 2015. However, in November 2016, Mr and Mrs S called Barclays asking if their (Mr and Mrs S's) PTA could be reactivated. But, by this point, the account was being wound down, so no trading could be carried out.
- Mr and Mrs S made a new transfer request in 2017. And in early 2021 they complained to J and to Barclays about the delays caused to their transfer request.

I issued a provisional decision where I made an increased award compared to that originally offered by Barclays. But in terms of the 2013 transfer request I decided this matter had been brought too late and our service didn't have the power to consider it.

In respect of the 2017 transfer, my provisional decision was that Barclays Bank UK PLC should:

- Pay Mr and Mrs S the amount they would have received if the same shares had instead been sold on 18 July 2018 plus simple interest at *8% per year from this date to the date compensation is paid.
- Pay Mr and Mrs S the *8% interest payments of £138.81 (gross) and £28.65 (gross) that it agreed to pay for the delay to the transfer of the sale proceeds.
- Pay Mr and Mrs S the £172.80 in line with its offer to waive its fees.

- Pay Mr and Mrs S £650 for the distress and inconvenience it caused making any deduction for any payments already made.

Barclays made a few small adjustments to my calculations. And it made a total offer of £2,496.38 based on its calculations. Its offer was forwarded to Mr and Mrs S. And Mr and Mrs S accepted this offer. So, the matter has been passed back to me to finalise matters.

What I've decided – and why

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

2013 transfer request

In my provisional decision I gave the following reasons for finding we could not look at this aspect of Mr and Mrs S's complaint – this now forms part of this decision:

If a business doesn't consent (Barclays hasn't), I can't consider a complaint which isn't made within six years of the event complained of, or if later, within three years of when the complainant became aware, or ought reasonably to have become aware, of the cause for complaint. This is due to DISP Rule 2.8.2 of the Financial Conduct Authority's Handbook.

The 'event' complained of is the delays to the transfer request made in 2013. So, the six year time limit started from this point. In this case this gave Mr and Mrs S until 2019 to complain if they were unhappy with anything to do with the transfer request they made in 2013. As they only complained about this to Barclays in early 2021, I consider this matter is out of time under the six-year part of our time limit rules.

Mr and Mrs S say the 2013 request is a continuation of the later transfer request made in 2017. But in my view, this is a separate transfer request. One was made in 2013 and then another was made in 2017. So, these were two separate events and if Mr and Mrs S were unhappy about the delays from 2013 onwards, they had at least six years to complain.

In terms of the three-year part of our rules, Mr and Mrs S had three years from the date they knew, or ought reasonably to have become aware, of a cause to complain. Barclays said the transfer was stopped in 2013 because T didn't respond to its requests. I'm not sure if this was communicated to Mr and Mrs S by either Barclays or J.

However, in 2015 J forwarded a letter to Mr and Mrs S's adviser letting him (the adviser) know the PTA was still active. And that it needed to be transferred due to the PTA no longer continuing. So, given Mr and Mrs S had already asked for a transfer two years previous to this, I consider the 2015 letter would have made them aware that something had gone wrong with the (2013) transfer request. This gave them until 2018 to complain under the three-year part of our rules. As they didn't complain until January 2021, I think the matter has been brought too late.

I can look at a complaint even where it has been brought too late if exceptional circumstances apply. But given Mr and Mrs S or their adviser were communicating with Barclays during different times up until they made their complaint I don't think this applies in this case.

For all these reasons, I find the 2013 transfer isn't a complaint I can look into as it has been brought too late and we have no power to consider it.

2017 transfer request

In my provisional decision I gave the following reasons for upholding this part of Mr and Mrs S's complaint – this now forms part of my final decision:

On 20 January 2018 Barclays was asked by J to sell one of Mr and Mrs S's shareholdings. And on 31 January 2018 Barclays received the full transfer instructions from J. This instruction asked it to do an in-specie transfer of all the other shares. It was after this point, that I think Barclays made a number of mistakes, so, I'm intending to uphold the complaint. I'll explain why.

When Barclays was sent the transfer instructions on 31 January, it told J that it (Barclays) could not carry out the instructions due to having to move Mr and Mrs S's shareholdings to a custody account. This was due to regulations that had just come in and the fact that Barclays was migrating all of its non-active accounts to a new custody platform. It was only after this the transfer could be progressed.

I appreciate Barclays was going through significant changes at this point. And it had given Mr and Mrs S prior warning of the fact the PTA was no longer going to be supported from July 2015. I note Mrs S called Barclays in 2016 to see if she could still trade on the account but was told this was no longer possible. So, I think it's likely she did receive the 2015 notice about the PTA no longer being supported by Barclays. Given Mr and Mrs S had been told some time before to transfer their account and only started this process in 2017, I can't fairly say Barclays acted unreasonably or unfairly in terms of the delays caused by the migration of the PTA account.

On 11 May 2018 Barclays was contacted by J and it seems to have been at this point that it told the latter about it not being able to do a partial in-specie transfer. This was because Barclays had received instructions to sell one of Mr and Mrs S's shareholdings, which was sent to it by J on 20 January 2018. Whilst I know Barclays is entitled to have its process and this may have been the result of Mr and Mrs S's account no longer being active, I do think it could've communicated this to the respective parties sooner. It at least had an opportunity to do so on 20 February 2018 or when J contacted it for updates in March 2018. But I can't see any communications from Barclays about this until early May 2018.

That said, I see once it had told Mr and Mrs S via J that it couldn't do a partial in-specie transfer, it had to wait two months to receive the updated instructions. Barclays said in its final response letter that J had cancelled the transfer instructions in May 2018. And this is why there was no progress after this point. However, when our service asked Barclays again about who cancelled the transfer instructions in May 2018, it was unable to say whether this was J or Mr and Mrs S or their adviser. J has told this service it didn't cancel the sale and looking at J's file, I'm persuaded it didn't ask Barclays to do so.

So, I think on balance, that it was likely that if there was an instruction to cancel the sale in May 2018, this was because Mr and Mrs S didn't want to sell their shares. Instead they wanted an in-specie transfer to be done and it would seem that they spent some time trying to persuade Barclays that it should do this given the delays they said it caused. I note that once their adviser was told about the need to sell all the shares, it took from 11 May until 28 June 2018 to agree to this – and it was only on 11 July that Barclays received updated instructions from J about the sale of the shares. So, I can't hold Barclays responsible for any delays during this time.

Once Barclays received the new instructions on 11 July 2018, whilst it did scan this on its system, it failed to act upon them until it was chased by J on 15 August. The sale of the shares then took five working days as they were sold on 22 August. They seemed to have

settled in the account by 4 September at which point Barclays had ten working days to transfer the cash to J. However, this wasn't done until 2 October.

So, in summary, I think the errors caused by Barclays up until the transfer of the sale proceeds to Mr and Mrs S's SIPP with J were as follows:

- It was unclear in its communications around the inability to do a partial in-specie transfer once it was told that one of the shareholdings would need to be sold. I think it could have communicated this to J or Mr and Mrs S by the end of February when it confirmed the shares had settled in the custody account.*
- It caused delays to the sale of the shares by not actioning the new instructions it received on 11 July 2018.*
- It caused delays to the transfer of the cash to Mr and Mrs S's account with J when the sale proceeds of the shares had been settled in or around 4 September.*

In terms of the communication issues related to the partial in-specie transfer, I think the impact of this is unclear as it took Mr and Mrs S sometime to decide what they wanted to do once they were told in May 2018. I know Mr and Mrs S were unhappy about not being able to do a partial in-specie transfer but I think Barclays were entitled to have its process particularly as their account was no longer a trading account. They [Mr and Mrs S] had been warned about this in 2015. So, whilst I think Barclays should pay compensation for the distress and inconvenience due to its poor communication about its process, I'm not persuaded this caused any financial loss to Mr and Mrs S.

For the delays caused once Barclays received the sale instructions on 11 July 2018, I think if it had acted correctly, it more likely than not would have sold these shares by 18 July 2018. This is five working days which is how long it took Barclays to sell the shares once chased by J on 15 August. So, I'm intending to ask Barclays to carry out a redress calculation based on the earlier date.

In respect of the delay in transferring the sale proceeds to Mr and Mrs S's SIPP with J, Barclays caused around two weeks delay. The cash settled in their account with B by 4 September and the transfer should have taken ten working days. Instead it took two weeks longer than it should have done. But this has to be balanced by the fact that Mr and Mrs S didn't use this cash for more than two years as it sat in their SIPP with J for this amount of time before being transferred. So, I think Barclays offer, to pay interest on the sum transferred is fair and reasonable.

Barclays has offered Mr and Mrs S a total of £450 - £300 in July 2019 and £150 in January 2021 - for the trouble and upset it caused by its errors. But this didn't take into account the communication issues I've set out above, So, I'm intending to increase this compensation to a total of £650. I think this is fair and reasonable in all the circumstances of this case.

After the transfer of cash to Mr and Mrs S's SIPP in late 2018, I don't think Barclays caused any further delays. The issues around the non-tradeable shares wasn't something it had any control over. And I can see that when T said it would accept two of the shareholdings in early 2020, Barclays acted on this instruction. Barclays also took steps to relinquish the relevant shareholding when requested to do so by J shortly after this.

But there still remains one shareholding to deal with so this is why the account with both Barclays and J remains open. Barclays has offered to refund the fees totalling £172,80. I think it should honour that offer but I don't think it needs to refund any further fees charged whilst the account remains open. When the matter came to our service, our investigator mediated with J about the last remaining stock. J agreed the last shareholding could be gifted. But Mr and Mrs S do not want this option as they think the shares may have some

value. So, I can't say Barclays is wrong for not closing Mr and Mrs S's account as there is still one stock remaining. And whilst the account remains open, I can't say it is acting unfairly for charging any applicable fees.

So, for all these reasons, I'm upholding the complaint and award compensation as offered by Barclays and accepted by Mr and Mrs S.

Putting things right

Barclays made an offer to Mr and Mrs S of £2,496.38 which was broken down as follows:

- £1,328.02 – Loss as a result of the delay in selling shares (prices as at 18 July 2018 compared to actual sale date)
- £345.56 – Net Interest on the loss amount of £1,328.02 (tax of £86.39 deducted – can be claimed back if a non-taxpayer)
- £172.80 refund of fees whilst these issues were ongoing
- £650 – Distress and inconvenience caused.

My final decision

My final decision is that Barclays Bank Plc should pay Mr and Mrs S £2,496.38 in line with the offer it has made as set out under 'Putting things right'.

* Where Barclays Bank PLC UK have deducted income tax from some elements of the offer it has made it should give Mr and Mrs S the necessary paperwork for them to reclaim the tax from HMRC if they are entitled to do so if they ask for it. Barclays Bank PLC UK will need to split the interest payments equally between Mr and Mrs S so they can each reclaim the tax from HMRC if they are entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 13 December 2022.

Yolande Mcleod
Ombudsman