

The complaint

Mr H complains about the support offered by Barclays Bank UK PLC when his uncle (Mr L) suddenly, and unexpectedly, became unable to manage the joint bank account held with his wife (Mrs L).

Mr H brings this complaint on behalf of Mr L (acting as his deputy) and the now deceased Mrs L (acting as the executor of her estate).

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail here. But, in summary:

- Mr L had always taken responsibility for managing all aspects of his and his wife's household affairs. This included managing and operating the joint current account they held with Barclays. But, in mid-April 2023, Mr L suffered a serious, debilitating medical condition which resulted in him losing mental capacity to make decisions about his (and Mrs L's) personal and financial affairs. Mrs L was unable and/or unwilling to take charge independently and so Mr H – Mr and Mrs L's only surviving relative – stepped in to help. This included applying for a Deputyship and a Lasting Power of Attorney (LPA), for Mr and Mrs L respectively, so that he could legally act for both. Processing times at the relevant authorities meant these appointments took some time to be put in place. The Deputyship came into effect in October 2023. It's not clear if the LPA was ever formally in place but Mrs L died in early-2024 and Mr H was subsequently appointed as her executor.
- Mr H has expressed concern with the level of support Barclays provided to Mr and Mrs L while he was trying to get authority to act as their legal representatives. He's also, in particular, unhappy with how Barclays handled the complaint he felt forced to raise in order to highlight the bank's lack of support.
- Our Investigator thought Barclays could have done more to help. But she wasn't persuaded this would likely have made a fundamental difference to the overall situation. Mr H disagreed, so the complaint came to me.
- I've already contacted Barclays about this complaint and the bank has now agreed that it could have done more. It also accepted my recommendation to pay £500 compensation to Mrs L. But Mr H didn't accept the offer and has asked for a formal decision, as he is entitled to do on behalf of Mr L, and Mrs L's estate.

I issued a provisional decision earlier this month setting out why I was minded to uphold the complaint. My provisional findings are reproduced below.

The scope of this complaint

Mr H has made very detailed submissions about this complaint and has criticised both Barclays and this service for not addressing all of, or not focussing specifically on, his

questions and concerns. In particular, in response to the investigator's view, Mr H expressed concern that she had misunderstood the complaint. He stressed that the basis for the complaint was *"Barclays' lack of appropriate response to the letter I wrote on 25 April 2023."* But he also said that what he was ultimately looking for by making the original complaint to Barclays was for the bank to *"formulate some mechanism to enable payment of bills pending my legal appointment."*

I appreciate Mr H's strength of feeling and can assure him that I've read everything he's said and provided before making my decision. I also think it would be helpful to explain that I have an inquisitorial remit, which means I can consider any matters which fall within the scope of the "expression of dissatisfaction" – that is, the complaint. I think the overarching service and support Barclays provided once it was notified about the change to Mr and Mrs L's circumstances are intrinsic to the consideration of this complaint. And this feeds in directly to Mr H's overarching concern that the bank didn't do enough to help Mrs L, after Mr L's incapacity, to continue to manage and operate the account.

So, I have considered all of those matters when making my decision.

I would also say that I'm not required to respond to each and every question or concern Mr H has raised. Nor will I rehearse every matter that's previously been debated between Mr H and the investigator. Instead I've concentrated on the main issues and what I believe to be the crux of the complaint. And if I haven't commented specifically on a particular point, that doesn't mean I haven't considered it.

What are my powers when deciding this complaint?

As set out above, I'm satisfied this complaint is ultimately about the way the bank supported (or failed to support) Mr and Mrs L with the operation of their account following the change in their circumstances. That means, as the investigator has already explained, the only eligible complainants in this case are Mr and Mrs L.

Mr H referred the original complaint to Barclays and it responded to him personally. But we were only able to deal with the related complaint that Mr H referred to us after he gained explicit consent from Mrs L, gained legal authority to act on behalf of Mr L and then (after Mrs L's death) gained legal authority to act on behalf of Mrs L's estate.

I point this out because most of the time and effort that has been expended – and related distress and/or inconvenience suffered – relative to this complaint is Mr H's own. But Mr H is not an eligible complainant in his own right. He is only eligible to bring this complaint by virtue of being the legal representatives of Mr L, and Mrs L's estate. With this in mind, the rules under which we operate don't give me power to make any awards of compensation relative to any financial losses, distress and/or inconvenience that Mr H has personally suffered while pursuing this complaint.

Sometimes the impact a bank's errors have had on a third party (like Mr H) can have a knock-on effect on the eligible complainant(s). And I can instruct the bank to compensate the eligible complainant for that knock-on effect. But it doesn't seem likely to me that Mr L experienced any related distress and/or inconvenience. That's because, from what Mr H has told us, Mr L's lack of mental capacity means he hasn't been aware of what's going on with the bank or been involved in trying to sort things out. So I can't see how it could be argued that the bank's failures (which I will talk more about below) have had a direct impact, or knock-on effect, on Mr L.

From what Mr H has said, it seems that Mrs L also had limited capacity, or willingness, to involve herself in these matters. But I think it's likely there has been some impact on her and will speak more to this below.

Finally, Mr H has stressed, more than once, that he feels there are systemic issues with the way Barclays treats and supports vulnerable consumers and this is one of the driving factors behind him pursuing this complaint. But my role is to consider the merits of Mr and Mrs L's sole complaint and whether any mistakes the bank has made have adversely impacted (financially or otherwise) Mr and Mrs L personally.

Should Barclays have done more to support Mr and Mrs L?

Mr H has said that Barclays ought to have done more to help when Mr and Mrs L's circumstances changed and rendered them both "vulnerable" consumers. There's no dispute here that characteristics of vulnerability became apparent at that time. And so, when making my decision, I've taken into account (amongst other things) the rules and guidance set out by the Financial Conduct Authority (FCA) about how firms should identify and treat vulnerable consumers.

Experience tells me that it's unlikely Mr and Mrs L will have been the first couple to find themselves in this unfortunate situation, where the dominant (and, previously, able) party unexpectedly loses capacity and effective contingency plans have not been put in place. So it also seems likely the bank will have come across comparable situations previously. In relation to the matters complained about, I consider Barclays to have been an expert in this situation and should have taken into account Mr and Mrs L's individual circumstances. I also think it should have had some awareness, without being told explicitly by Mr H, that it was taking a considerable amount of time for the relevant authorities to process applications for Deputyships and LPAs. And this should have been taken into account when considering what support Mr and Mrs L might need in the interim.

With this in mind, and having reviewed everything that's been said and provided, I currently think Barclays could have done more to proactively support Mr and Mrs L. However, I currently think £500 represents fair and reasonable compensation in all the circumstances of this complaint. I say this, not least, with the following in mind:

- Barclays knew about the change in Mr and Mrs L's circumstances, including their vulnerabilities and difficulties operating their account, after Mr H wrote to them towards the end of April 2023. I've listened to an earlier call that Mr H made to the bank but those discussions were generic, rather than consumer-specific, as Mr H didn't have authority to act on Mr and Mrs L's behalf and so the bank didn't have authority to discuss their specific account or circumstances with him. For similar reasons, the final response letter Barclays sent to Mr H after he complained on Mr and Mrs L's behalf could only speak generally about the situation. But, I still don't think this letter sufficiently addressed the concerns he'd raised or provided adequate information about the next steps or how the bank might be able to support Mr and Mrs L while Mr H sought to gain legal authority to act for them.
- Two cheques which Mrs L signed in late-March 2023 were honoured whereas the one she signed in mid-April was declined because the bank didn't think there was a close enough match to the signature it held on file. It also refused Mrs L's request for a new debit card due to the signature mis-match. I have seen copies of all three cheques now and can appreciate why Mrs L and Mr H were confused about why the third cheque was refused – I don't think the signatures on the earlier cheques were any more or less of a match than the third cheque. However, the cheques were presented at different times, will have been reviewed separately and the bank must be satisfied on each, separate

occasion about whether there is a close enough match to the mandate. I've also now received a recording of a call made by the bank about the third cheque. It does seem, despite what Mr H has said, that Mrs L answered but abruptly ended the call possibly because she didn't understand who, or why, the call was being made.

- Barclays is able to undertake home visits to its customers in exceptional circumstances. And I can see from the bank's internal notes that such was suggested in mid-May 2023 by a member of its Advocacy team, who acknowledged that both Mr and Mrs L were vulnerable. It's not clear to me why this course of action was not pursued so that the bank could further explore Mr and Mrs L's situation and what solutions might be possible in order to enable them to continue to operate their account. It seems entirely possible to me that the bank could have helped to resolve the situation if a home visit (potentially with Mr H present in order to give informal support to Mrs L) had been offered and undertaken.
- The bank's records indicate a new debit card was sent to Mrs L towards the end of May 2023 and was first used at the end of June. It's not clear to me when online banking was activated. But I can see from the account statements, for example, that bill payments were being made from early-June and direct debit instructions became active from October 2023. I can also see a few card payments being made between the date of Mr L's incapacity and Mrs L's new card being issued. So it looks like Mr L's debit card was able to be used, perhaps to a limited extent, even though the PIN wasn't held. Nevertheless, I've also taken into account Mr H's assertion that the new debit card and online access was only obtained because his wife's acquaintance was able to help facilitate this – apparently, that acquaintance works for Barclays. The records Barclays has submitted do not make clear how exactly that individual was able to help move matters along. But the point to focus on here, I think, is that a Barclays employee was able to influence the situation and so I think the same end could (and, arguably, should) have been achieved at an earlier point in time, and promptly after Mr H raised the initial complaint setting out the difficulties Mr and Mrs L were facing.
- As I've already noted, it was mainly Mr H driving enquiries with the bank and the resulting complaint. But Mrs L did not lack mental capacity and I think it's entirely possible that she had a degree of awareness of what was going on and may well have suffered some distress and inconvenience as a result of the bank's failings. I think it's fair to award compensation to Mrs L's estate to recognise this.
- We asked Mr H if Mr and Mrs L suffered any financial losses as a result of being unable to operate the joint account. Mr H referred to various payments that had become due, including care fees (which he arranged to be deferred) and council tax and I've already discussed the way the account has been operated. In the circumstances, I've seen no evidence of any financial losses for which I think it's fair to hold Barclays liable.

Mr H thanked me for reconsidering the complaint but didn't accept all of my conclusions or my overall recommendation. He acknowledged the additional evidence I'd referred to and said, in summary, that:

- There were some factual inaccuracies in my provisional decision. Mr L's medical condition occurred in mid-March 2023, rather than mid-April 2023. The Deputyship for Mr L was granted in August 2023. The LPA for Mrs L was granted in late-October 2023.
- They were able to use Mr L's debit card only for phone-based payments which didn't require the PIN to be entered. It was only with the intervention of his wife's acquaintance, and his wife being a Barclays account holder, that they were able to obtain a new debit

card for Mrs L which was then used to set up online banking. These were the payment methods used until the Deputyship was obtained and a debit card was issued in Mr H's own name. But this assistance was obtained purely by chance and through no intervention and/or support from the staff at Barclays who should have been able to help. If the acquaintance hadn't stepped in then the financial distress would have been even more prolonged (approximately 8 months) and severe. This individual and the agreement of the local council to accept deferred payments prevented there being any financial losses.

- He disagrees with my interpretation of "distress" and the impact on Mr L – I focussed solely on his personal and emotional distress and ignored his financial distress. I've also ignored that Mrs L was definitely distressed knowing she was unable to pay her bills. Barclays' failures directly placed them both in severe financial distress.
- He is concerned that I cannot address the systemic issues he has identified. His discussions with others have revealed that Barclays often fails to support its most vulnerable customers in ways similar to those that led to this complaint.

Barclays accepted my provisional findings.

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.

I'm grateful to Mr L for clarifying several aspects of the timeline, but those revised details and his other comments have not changed my mind about what Barclays need to do now.

The rules under which we operate say that I can make money awards for one of more of the following:

1. financial loss (including consequential or prospective loss); or
2. pain and suffering; or
3. damage to reputation; or
4. distress or inconvenience;

I have no power to fine or punish Barclays. And any award I make must take into account the actual, not the hypothetical, impact resulting from the bank's failings.

With this in mind, I have considered Mr H's additional comments about the losses and impact he believes Mr and Mrs L individually experienced. He talks about financial distress – that is, at a basic level, their inability to pay for day living expenses – but also confirms that this didn't result in any actual financial losses. So I think, despite what Mr H has said, what remains for me to consider is the emotional distress and/or inconvenience that resulted from being unable to make those payments and, more broadly, from being without the necessary support from the bank to operate the account.

As I've already said, due to his medical condition, Mr L was entirely unconscious of the events that led to this complaint. And it's apparent that the care he needed during this time continued, despite the bank's failings. With all of the above in mind, and in all the circumstances of this complaint, I can't fairly make an award of compensation to Mr L.

Mr H has further confirmed that Mrs L had some awareness of what was going on and suffered some distress knowing she was unable to operate her account. But I acknowledged this in my provisional decision and nothing Mr L has said persuades me that I should

increase the award I previously proposed to make.

I appreciate Mr H's comments about the systemic issues he perceives to exist and his concerns about the limitations of my powers. I can understand why he's disappointed. But there is little I can usefully add – as I've already said, my role is to make a decision about this individual complaint. But I would note that the rules under which we and Barclays operate encourages businesses to learn from our decisions. And, as I said in my provisional decision, Barclays has now accepted that it could have done more to support Mr and Mrs L.

My final decision

My final decision is that I uphold this complaint and instruct Barclays Bank UK PLC to pay £500 compensation to Mrs L's estate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H (on behalf of Mr L and the estate of Mrs L) to accept or reject my decision before 26 July 2024..

Ruth Hersey
Ombudsman