

The complaint

Mr and Mrs M have complained that Barclays UK Bank PLC (“Barclays”) mis-sold them a fee-paying Tech Pack.

They say that the Pack was sold to them over the phone, but it was never made clear to them that they needed to register devices for them to be covered by the Tech Pack.

Mr and Mrs M have also complained that Barclays did not comply with a Data Subject Access Request (DSAR).

What happened

Mr and Mrs M were sold the Tech Pack in September 2020 during a telephone call.

During mid-2022, Mrs M says that she noticed in the small print of the Tech Pack that her devices are not covered if they are not registered.

Mr and Mrs M complained to Barclays, but Barclays didn’t think it had mis-sold the Tech Pack, so didn’t agree to refund the Pack fees that Mr and Mrs M had paid.

After Mr and Mrs M referred their complaint to this service, one of our investigators assessed the complaint and they too didn’t think the Tech Pack had been mis-sold.

Mr and Mrs M disagreed with the investigators assessment, so the matter was referred for an ombudsman’s decision.

I issued a provisional decision on 12 January 2024, in which I explained why I didn’t think that the Tech Pack was mis-sold and also addressed Mr and Mrs M’s concerns about Barclays’ handling of their DSAR. I have included an extract of my provisional decision below, and it forms a part of this decision.

“What I’ve provisionally 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.

We’ve explained our approach to complaints about packaged accounts on our website and, given that a Tech Pack operates in a similar fashion to a packaged account, I have used that to help me decide this complaint. Having reviewed everything, I currently uphold this complaint in part.

Was the Tech Pack mis-sold?

Mr and Mrs M say that their devices are only covered by the Tech Pack if they register them with the insurer. Mr and Mrs M therefore say that the Tech Pack was mis-sold because they were not made aware of the need to register their devices, when the Pack was sold to them.

I have read the terms and conditions for the Tech Pack from 2020, 2021 and 2022 (the latter of which is when they cancelled their Pack). But in all of the documents I have seen, it says that devices can be registered to help with the claims process (should a claim need to be made). But importantly, eligible devices are still covered by the Tech Pack even if they have not been registered, prior to a claim being made.

I note that documentation that was effective in 2022 does mention cover being provided for mobile phones and gadgets registered under the Pack. But the documentation goes on to say:

“Policy Conditions – What you need to do

1. Register your devices. If You have not already done so, You must register Your Device at the time You make a claim. Please see the “Register Your Devices” section above for information on how to register Your Devices.”

Given the above, I’m satisfied that it was still possible for Mr and Mrs M to make a claim for an eligible device, that had not been previously registered. To do this they would have to register the device as part of the claims process.

So in short, Mr and Mrs M’s eligible devices have always been covered by the Tech Pack, even if they were not registered. As such, I can’t say that Mr and Mrs M have been adversely affected or have lost out, even if registering devices was not discussed during the Tech Pack sales call. Given that this is the basis for why Mr and Mrs M believe that the Tech Pack was mis-sold, I’m unable to conclude that it was.

Because of this, I don’t think it would be appropriate to require Barclays to pay back the fees that Mr and Mrs M paid for the Pack, as ultimately, they received the insurance (and other benefits) that they’d paid for.

August 2022 DSAR request

Mr and Mrs M say they submitted a DSAR to Barclays on 27 August 2022 and they say that Barclays failed to comply with their DSAR request. Having looked into this matter, it is clear that Barclays did not deal with the DSAR as it was required to do.

I can see that Barclays emailed Mrs M on 20 September 2022 to say that the DSAR was still being looked into. Barclays then emailed Mrs M on 2 December 2022 asking for more information from Mrs M, so that it could locate the information that she’d requested. I understand that Barclays then sent call recordings to Mrs M in December 2022.

Looking at the timeframes in question, I can see that Barclays did not respond to the DSAR within the timeframe it was required to. It seems that Barclays took an unreasonable amount of time in which to deal with Mrs M’s request.

I note that Mrs M was unhappy with the format that the call recording was sent in. Mrs M says that Barclays should’ve sent the call recording by email. However, I think that sending a call recording by CD is not unreasonable. I note that Mrs M says that Barclays failed to make a reasonable adjustment for her circumstances, as she said she had no way to play a CD.

But Barclays did then send the call recording by USB stick as well, due to Mrs M not being able to play a CD. Barclays also agreed to cover the cost for Mrs M to buy a USB adapter so that she could listen to the call recording. In my view this is reasonable. And Mr and Mrs M have confirmed that they have been able to listen to the call recording.

So overall, I do think that Barclays should’ve dealt with the request better. But I do think it took reasonable steps to send the call recording in a format that Mrs M was able to listen to.

Finally, I note that when Mrs M did listen to the call, it was not the call she’d requested – which was the Tech Pack sales call.

Our investigator challenged Barclays about this. Barclays confirmed that it had not been able to locate the Tech Pack sales call recording. Barclays showed us its search records to confirm that was the case.

So based on the evidence I have been provided with, I'm satisfied that Barclays does not (at least not anymore) have a copy of the sales call that it can provide Mr and Mrs M with.

Reading through Barclays' final response letter, it does read as though the person who had dealt with the complaint had listened to it – which I don't think was particularly helpful if it was not in fact available. Barclays has since clarified that the final response letter was addressing what should've been said during the sales call, rather than what was actually said.

However, given that I don't think that the Tech Pack was mis-sold for the reasons given above, I would like to assure Mr and Mrs M that the absence of the sales call has not impacted my assessment on whether the Tech Pack was mis-sold or not.

Putting matters right

I appreciate that this matter has been frustrating for Mr and Mrs M. I think this inconvenience and frustration could've easily been avoided had Barclays been clear from the outset that it didn't have a copy of the sales call and explained that the Tech Pack did cover unregistered devices. And I think that it could've dealt with the DSAR quicker than it did too.

Because of these reasons, I currently think that Barclays should pay Mr and Mrs M £100 for the unnecessary and avoidable distress and inconvenience that has been caused by Barclays' actions.

I also think that - if it has not done so already - Barclays should reimburse Mr and Mrs M for the cost of the USB adapter, as it has previously offered to do. Mr and Mrs M may need to provide evidence to show how much they spent on the adapter, if they have not yet been reimbursed for this."

After I issued my provisional decision both parties responded.

Barclays responded and said that it had already offered Mr and Mrs M £100 - in its final response letter – and explained this was offered for the distress and inconvenience caused by its handling of the DSAR. It also confirmed that it had refunded one month Tech Pack fee as a gesture of goodwill towards Mr and Mrs M. It also confirmed that it had originally offered to pay Mr and Mrs M £8.49 towards the cost of the USB adapter.

Mr and Mrs M responded and did not accept my provisional decision. In summary, Mrs M provided information about her medical conditions and her difficulty reading. Mrs M says that Barclays handling of her DSAR amounts to discrimination, as it failed to make a reasonable adjustment for her circumstances. Mrs M says that it was not acceptable that Barclays sent her a CD. Mrs M also says that Barclays told Mr M to open a new account and add the Tech Pack to it.

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.

Having reviewed everything, including both parties' responses to my provisional decision, I see no reason to reach different conclusions from the provisional decision.

In terms of the sale of the Tech Pack, Mrs M hasn't said anything to change my view that it wasn't mis-sold. Mr and Mrs M said it was mis-sold because Barclays failed to make them aware of the need to register devices. But the terms and conditions of the Tech Pack only recommended that devices be registered to make the claims process easy. It remains that Mr and Mrs M's eligible devices were covered by the Tech Pack, even if they were not registered. So I don't think the Tech Pack was mis-sold and I think that Mr and Mrs M received the cover they paid for.

Mrs M has said that Barclays discriminated against her because, she says, it failed to make a reasonable adjustment when responding to the DSAR.

I should explain that our service is unable to make findings on whether or not something constitutes discrimination under the Equality Act 2010 (or indeed, any other legislation). This is because this service is an informal alternative to the courts. If Mr and Mrs M want a finding as to whether or not Barclays' response to the DSAR is a breach of the Equality Act (or any other anti-discrimination legislation), they will need to pursue it through the courts. This is because only a judge can give a formal decision on whether or not a piece of legislation has been breached. It is outside of this service's jurisdictional remit and not something I can do within this decision.

All I can consider is whether or not the business has acted in a fair and reasonable manner in this matter. Although, to do that, I take a number of things - including anti-discrimination legislation - into consideration.

I understand that Mr and Mrs M say that Barclays failed to make a reasonable adjustment because it chose to send them a call recording they'd requested, on a CD. Mrs M says she is unable to play CD's. Because of this Barclays then sent the call recording via a USB stick – and offered to pay for a USB adapter. Mr and Mrs M confirm that they were then able to listen to the call recording.

Firstly, from everything I have seen, it seems that Mr and Mrs M were unable to listen to the CD Barclays sent them, not because of Mrs M's medical conditions, but simply because they don't have a CD player. So I can't say that Mr and Mrs M's inability to listen to the CD that Barclays sent them was somehow affected by Mrs M's medical conditions. But even if I thought it was, Barclays agreed to send the call recording in a different format – via USB stick – and offered to pay for a USB adapter, so that Mr and Mrs M were able to listen to it. As such, I can't say that Barclays was being unfair, unreasonable or unwilling to accommodate Mr and Mrs M's circumstances.

That being said, I do agree that Barclays's response to the DSAR was unreasonable. It took too long to respond and I think it should've made it clearer, much sooner, that it did not in fact have a copy of the Tech Pack sales call recording that Mr and Mrs M wanted to listen to. Had Barclays done this, it would've better managed Mr and Mrs M's expectations about what was contained in the call recording. It is for these reasons that I think £100 compensation is warranted.

When Barclays responded to the provisional decision, it said that it had already offered (in the final response letter) to pay Mr and Mrs M £100 compensation for how it handled the DSAR. I understand this has not been paid to Mr and Mrs M.

When I issued my provisional decision, it wasn't clear from the final response letter whether the £100 offer was in relation to the handling of the DSAR or another matter. However, Barclays has clarified that it's offer of £100 was for the distress and inconvenience caused by its handling of the DSAR.

Overall, I think what Barclays offered is reasonable – essentially for the reasons I gave in the provisional decision. I have considered what Mr and Mrs M have said about why they believe this award should be larger. But I think this award is fair and reasonably reflects the frustration they felt in having to wait for Barclays to respond to their DSAR.

Barclays also confirmed that it had already refunded one month of the Tech Pack fees as a gesture of goodwill towards Mr and Mrs M. It also confirmed it had offered to pay Mr and Mrs M £8.49 for the USB adapter. Again, I think this was fair in the circumstances. I say this

especially as it meant that Mr and Mrs M were able to listen to the call recording in a format that suited them, without incurring additional cost to do so.

As a final point, I note that when Mr and Mrs M responded to the provisional decision, they commented on other issues. For example, they have commented on how difficult they find it to read banks terms and conditions in general. However, if they wish to complain about other matters, they will need to raise new complaints with the relevant businesses.

Putting things right

So to put matters right, I require Barclays to pay Mr and Mrs M £100 for the distress and inconvenience caused to them by its handling of the DSAR.

I also think that Barclays should pay Mr and Mrs M £8.49 to reimburse them for the cost of the USB adapter.

My final decision

Because of the reasons given above and in my provisional decision, I uphold this complaint in part. I therefore require Barclays Bank UK PLC to do what I have outlined above, to put matters right, in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 15 February 2024.

Thomas White
Ombudsman