

The complaint

Mr M complains about Clydesdale Financial Services Limited, trading as Barclays Partner Finance, failure to make a reasonable adjustment for his serious mental health condition.

What happened

I issued my provisional decision on 2 January 2024, and this is what I said:

I've considered the relevant information about this complaint.

Based on what I've seen so far, there will be a different outcome to what our investigator proposed. Before I issue my final decision, I wanted to give everyone a chance to reply. I'll look at any more comments and evidence that I get by 30 January 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mr M complains about Clydesdale Financial Services Limited, trading as Barclays Partner Finance, failure to make a reasonable adjustment for his serious mental health condition.

What happened

Mr M has a personal loan with Barclays Partner Finance.

Mr M experienced a number of unfortunate life events which included the loss of his job and eventual loss of his home. This led to bankruptcy, severely affected his mental health condition and caused him to be hospitalised.

Mr M found that Barclays Partner Finance's repeated debt collection phone calls impacted on his condition, so he provided them with information and asked them for a reasonable adjustment. This was to stop making the calls and to write to him instead.

Barclays Partner Finance agreed to this but continued to make some calls.

Mr M complained to Barclays Partner Finance. They apologised, said they had let him down, paid him £100 and said the calls would stop. However, Mr M continued to receive some calls.

Barclays Partner Finance issued a further apology and increased the compensation by £50.

Mr M was dissatisfied with their response, and he complained to our service. However, our investigator considered their compensation offer to be reasonable.

As Mr M remains dissatisfied, this case has now been referred to me to look at.

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.

Having done so, I have come to the view that the compensation award should be increased, and I'll explain why I'm upholding this complaint.

I should first explain the following:

- *Under the Equality Act 2010, businesses must take reasonable steps to remove barriers that people face because of their disability (which includes mental health problems) so that, as far as possible, people with disabilities receive the same service as people who don't have a disability and are therefore not placed at a substantial disadvantage. However, it's not for this service to judge whether Barclays Partner Finance have breached the Equality Act 2010 here, as that's an issue for the courts.*
- *Our role is to consider each individual case and, where we think a business hasn't acted fairly and / or reasonably in the circumstances, to decide what should be done to put right any financial, or non-financial losses that a consumer has experienced.*
- *We have a mandate to resolve complaints in an informal way, asking both parties to submit evidence and arguments. However, we don't have powers to interrogate business systems or records and it is Mr M's prerogative to do a subject access request.*
- *In cases where information is incomplete (as it is in this case, due to Barclays Partner Finance not providing some call recordings it possesses), inconsistent or contradictory, I must reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available information.*

Mr M has shared private and confidential medical information with our service, and I'm satisfied that he has both a severe mental health condition and physical health issues. So, I consider him to be a vulnerable customer as defined by the Financial Conduct Authority's guidance on this matter.

From reviewing system notes and correspondence including Mr M's persuasive testimony and complaint response letters, although there is a dispute over some of the calls that were made in August 2022, I'm satisfied that Barclays Partner Finance were aware of Mr M's vulnerability. And despite this, I think it more likely than not that they continued to make a number of calls after he asked them for an adjustment. I think this was a reasonable adjustment considering the evidence of a very serious mental health condition.

Mr M wrote to Barclays Partner Finance's CEO and received a response on 22 August 2023 which said:

- *'I'm upholding your complaint as I feel we've let you down and I'm very sorry for this.*
- *I understand the calls you've received from us have caused further distress to you at an already difficult time and I'm so sorry about this.*
- *I can see you called us on 9 August and spoke with my colleague, regarding the financial difficulties you were going through.*
- *Your accounts with Barclays Partner Finance and X Bank have been placed on hold to prevent calls being made to you and I've sent your bankruptcy notice to the relevant areas.'*

In response to a subsequent complaint from Mr M, Barclays Partner Finance said:

- *Following the Final Response Letter, we sent you on 22 August and your subsequent email dated 15 September, your complaint has been re-opened. I can see we've contacted you again about your account so please accept my sincere apologies for this.'*

Although Barclays Partner Finance don't dispute they should've done more here, and they've apologised and offered £150 redress, I don't think their compensation fully considered the impact of their mistakes on a customer who is extremely vulnerable.

Mr M's request to only receive correspondence was because he was feeling trapped in an

extremely difficult situation of physical ill health, impaired mobility, significant debt and depression and he was about to be made bankrupt and homeless. A Consultant Neuropsychiatrist has explained how Mr M was facing a suicidal crisis. And to take the edge off this, he was seeking help and trying to control the situation, which included distracting himself from debt reminders that had been causing him to have suicidal urges.

So, having been relieved to be listened to and told the debt collection could be controlled through the management of correspondence as opposed to receiving unexpected calls, I'm persuaded that Barclays Partner Finance's repeated mistakes had a considerable impact here. This is because their calls triggered the above-mentioned suicidal urges.

So, I think a much higher award is warranted here, given everything that happened. It's worth highlighting that our rules allow us to award compensation for pain and suffering in addition to distress and inconvenience. And I've taken the impact on Mr M's mental health into account.

Assessing compensation isn't an exact science and our approach when making awards for non-financial loss is detailed on our website and tends to be modest. Having carefully considered the impact here together with our guidance, based on what I've seen so far and subject to any further information I receive from either party, I'm currently minded to direct Barclays Partner Finance to increase their compensation offer to £750.

My provisional decision

For the reasons I've given above, it's my provisional decision to uphold this complaint. I require Barclays Partner Finance, to pay Mr M £750 compensation less any amounts already paid.

I'll look at anything else anyone wants to give me – so long as I get it before 30 January 2024.

Unless that information changes my mind, my final decision is likely to be as I've set out above.

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 would like to thank both parties for responding before the 30 January 2024 deadline.

Barclays Partner Finance agreed the provisional decision and said they didn't have any further call recordings.

Mr M said:

- *"I agree with the Ombudsman because he has captured exactly what it felt like at the time to receive these calls from Barclays Partner Finance and the significant impact they have had".*
- *"As you know I contacted Barclays Partner Finance because they had sent me a written transcript which bears no resemblance to calls I received and I have challenged them and requested they be sent to you. If they arrive before the deadline, I would be happy for the Ombudsman to listen to them, if not I am happy to accept the outcome as set out in the provisional decision".*

As no further arguments or evidence have been produced in response to my provisional decision, including call recordings, and both parties agree, my view remains the same.

I therefore adopt my provisional decision and reasons as my final decision.

My final decision

For the reasons given above, and in my provisional decision, my final decision is that I require Clydesdale Financial Services Limited, trading as Barclays Partner Finance, to pay Mr M £750 compensation less any amounts already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 February 2024.

Paul Douglas
Ombudsman