

## Ombudsman's Determination

Applicant	Mrs Y
Scheme	Barclays Bank UK Retirement Fund ( <b>the Fund</b> )
Respondent	Barclays Bank Plc ( <b>Barclays</b> )

## Outcome

1. I do not uphold Mrs Y's complaint and no further action is required by Barclays.

## Complaint summary

2. Mrs Y's complaint against Barclays is about the reconsideration decision made in September 2017 and the level of ill health retirement (**IHR**) pension which resulted from that decision.

## Background information, including submissions from the parties

3. In February 2011, Mrs Y left employment at Barclays.
4. Mrs Y was subsequently granted the lower tier of IHR under the Fund Rules. In July 2014, after our involvement, Barclays agreed to re-consider Mrs Y's application for the Fund's higher tier of IHR. However, Mrs Y's health would still be assessed at the date she left employment in accordance with the Rules.
5. On 8 May 2017, Mrs Y sent Barclays further medical evidence from her GP and her Consultant Geneticist, Dr Turnpenny.
6. On 11 July 2017, Dr Mason, an independent registered medical practitioner (**IRMP**), provided a report based on the evidence Mrs Y submitted. Dr Mason said that the evidence supplied added little new information in considering Mrs Y's state of health in February 2011. Dr Mason also said she had not identified any new medical evidence that would have led to a different medical opinion on Mrs Y's permanent incapacity that was necessary to qualify for the higher tier of IHR.
7. On 25 September 2017, Barclays wrote to Mrs Y saying that it had reviewed the new evidence and decided that its decision to grant Mrs Y the lower tier of IHR was correct. Barclays said that the medical evidence supplied by Mrs Y did not change its

understanding of her health in February 2011 and was informed by later developments in Mrs Y's health.

## **Adjudicator's Opinion**

8. Mrs Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by Barclays. The Adjudicator's findings are summarised below:-
- The Adjudicator's role, and ultimately the Ombudsman's, is not to decide whether Mrs Y is eligible for IHR; that is a matter for Barclays to decide after obtaining evidence and a report from a suitably qualified IRMP. It is also not for the Ombudsman to agree or disagree with any medical opinion. The Ombudsman's role is to decide whether Barclays has abided by the Fund's Rules, asked relevant questions, considered all relevant evidence and explained the reason(s) for its decision in a transparent way. If there are flaws in the decision-making process, the Ombudsman can require Barclays to look at Mrs Y's case again.
  - The evidence supplied supported the finding that Barclays re-considered Mrs Y's IHR application appropriately after our previous involvement with her case. It was for Barclays to apportion weight (if any) to the relevant medical evidence as it saw fit and it can prefer one medical opinion over another. The Adjudicator considered that Barclays gave due consideration to the further evidence Mrs Y supplied from her GP and Dr Turnpenny.
  - Based on the facts, Barclays considered the available evidence against the Fund Rules and did not make a flawed decision.
  - The second element of Mrs Y's complaint related to the amount of IHR pension she was awarded. The Adjudicator appreciated that Mrs Y's health had adversely affected her financial situation and she was concerned by how her pension would increase in future.
  - The Adjudicator empathised with the position Mrs Y found herself in. However, there was no provision in the Fund Rules for the Trustee to increase Mrs Y's pension based on her financial hardship. The Trustee can only calculate and pay Mrs Y the pension she is entitled to, in accordance with the Fund's Trust Deed and Rules.
9. Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs Y provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mrs Y for completeness.

**Ombudsman's decision**

10. Mrs Y maintains that her health has not improved in the last 11 years and that she “is unfit to work in any job role”. As explained by the Adjudicator in his Opinion, my role is not to review the medical evidence and come to a decision of my own but to consider Barclay's decision-making process.
11. Barclays was bound to look at Mrs Y's prognosis as it was understood at date of application in light of all the evidence relevant to that issue. It has obtained an opinion from an IRMP which is of the view that the new evidence submitted does not shed light on the prognosis as at that date. Consequently, I agree with the Adjudicator's view that Barclays re-considered Mrs Y's IHR application appropriately based on the medical evidence.
12. In her recent comments, Mrs Y queries the value of her Fund, specifically the level of credits made into it, saying that she first questioned these in 2012 and has been assured that they are correct. She asks for further enquiries now to be made about that issue. I appreciate that Mrs Y feels “perplexed” as to how her entitlement was calculated. However, Mrs Y's entitlement was determined at the time that her IHR was granted in 2012. Contributions ceased after Mrs Y left employment in February 2011. Our office cannot offer actuarial services and Mrs Y should address any queries about the calculation of her entitlement to the Fund Trustee directly. Mrs Y also says that her pension is insufficient to live on. I empathise with the position in which Mrs Y finds herself. However, Mrs Y's pension entitlement must be calculated in accordance with the Fund Rules.
13. I do not uphold Mrs Y's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
27 November 2019