

The complaint

A charity, which I'll refer to as S, complains that Barclays Bank UK PLC prevented it from accessing its funds.

What happened

S's trustees told us:

- Barclays contacted them in early 2022 to say the type of account they held was no longer appropriate, and they were required to open a new community account.
- The process of opening the new account took over three months and was very frustrating.
- Barclays failed to close the old account within a reasonable period and did not transfer the balance of the old account to the new account.
- Sadly, one of the signatories on the old account passed away. They provided his death certificate to Barclays, but the bank kept sending correspondence to his address – causing distress to his widow.
- They did not have access to their funds for over a year, which had a significant impact to them as a small charity.

Barclays told us:

- Technically the old account belonged to a different legal entity with the same name as S. The old account belonged to a non-incorporated charity. In 2021, S converted to a charitable incorporated organisation (CIO), which meant that it could not continue to use the previous entity's existing Barclays account.
- It is sorry for the delay in opening S's new account, but the required due diligence was a complex process. It is not prepared to compensate S's trustees for going through its onboarding process, as that is a requirement due to the change in entity.
- It faced difficulties in obtaining instructions to close the old account and transfer the balance to S's new account. That is because, of the four signatories on the old account, three had passed away. The account had a complex mandate ('two to sign'), meaning that the remaining signatory was unable to act alone to give valid instructions. However, the previous entity no longer existed (as a result of S's conversion to a CIO), and so it was not possible to add new signatories to the old mandate.

One of our investigators looked at this complaint and discussed the circumstances with both parties. At one stage Barclays offered to close the old entity's account if it received instructions from the sole remaining signatory of that account – but S's trustees explained

that that was not possible, because the remaining signatory was seriously ill and not in a position to provide new instructions. However, S's trustees pointed out that in 2022 the remaining signatory of the old account had attempted to instruct the bank to close the old account and transfer the balance to S's new account. Barclays considered the matter, and in July 2023 it closed the old account and transferred the balance (of almost £36,000) to the new account.

After further discussion with our investigator, Barclays offered to pay S £300 to compensate for the inconvenience it had suffered. It also offered to pay the interest that S would have earned if the balance of the old account had been transferred to S's new account on 5 December 2022 rather than 19 July 2023.

Our investigator thought Barclays' offer was fair, but S's trustees did not. They say that Barclays should have closed the old account down as soon as the new one was opened, and so interest should have been backdated to the opening of the new account (and not just to 5 December 2022). They explained that they had instructed Barclays to make the transfer, and in any event it should have been sensibly suggested by Barclays at the time. It would have been obvious to Barclays that the charity could not operate with zero funds in its new account. S's trustees are also looking for compensation for the time taken to resolve the matter, the endless frustration they suffered, and the cost of telephone calls.

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.

It's clear that the trustees have been through an extremely upsetting time. I was sorry to hear that several of the people associated with S have died, and that others have suffered serious health problems. The issues the trustees faced in resolving S's banking problems will obviously have caused further distress at an already very difficult time.

However, in the unusual circumstances of this case, my view is that the majority of the banking problems S faced were not caused by a mistake on Barclays' part – or indeed by a mistake on anyone else's part.

I acknowledge that S's trustees made many attempts to give instructions to Barclays about what should happen to the money in the old bank account. The remaining signatory of the old account also attempted to give instructions (until he became too unwell to do so). But from Barclays' perspective, the problem was that none of those instructions were given in accordance with a valid mandate.

S's trustees (acting in their capacity as a trustee of S) had no rights at all to give instructions in respect of an account belonging to a different entity, even if that entity did have the same name as S. The remaining signatory of the old account did have some rights in respect of that old account, but Barclays says the mandate for the old account was 'two to sign' – meaning that he could not give a valid instruction on his own. It is very common for charity accounts to be set up on a 'two to sign' basis, for the protection of both the charity and the signatories.

Here, Barclays eventually decided to set aside the 'two to sign' aspect of the mandate. I would normally be very concerned about a bank's decision to ignore a mandate that I thought was put in place for the charity's protection, and I would usually strongly disapprove of a bank's decision to pay tens of thousands of pounds on the instruction of just one signatory on a 'two to sign' mandate. However, the circumstances of this individual case are very unusual, and I can understand why Barclays ultimately chose to accept instructions

from just one person. But it follows that it would be unfair for me to criticise Barclays for not accepting those instructions earlier. Even if Barclays had still not accepted the instructions it had received – for example, if it had insisted that it required either a valid instruction or another document such as a court order to release the funds – I might still have concluded that Barclays was acting reasonably.

Having said that, I don't think it would have been fair to S for Barclays to have allowed the matter to drag on indefinitely. Whilst I think the facts of the case mean that a substantial delay was reasonable, at some point Barclays needed to decide whether it was going to allow money from the old account to be transferred to S on the instructions of just one of the old account's signatories. Barclays' view now is that it should have made that decision by 5 December 2022. I consider that is reasonable. S would now be better off if Barclays had made the transfer earlier, so I think it should pay some compensation.

Putting things right

Barclays says that it could and should have transferred the balance of the old account to S's new account on 5 December 2022, and so it has offered to pay S the interest it would have received had that transfer happened on 5 December 2022 instead of 19 July 2023. That seems reasonable to me. Given the complexity of the situation, I don't think it would be fair for me to criticise Barclays for failing to act immediately on the single signatory's instructions – and so I don't think it would be fair for me to order Barclays to backdate interest to the date those instructions were given.

I also consider that Barclays' offer to pay S £300 for inconvenience is fair in respect of the bank's delay in making a decision as to whether it would accept instructions from a single signatory of the old account. I am aware that arranging for the new account to be set up will itself have caused inconvenience to S, but I make no award for that aspect of the matter – because I don't think Barclays was wrong to insist that the newly incorporated S opened a new account in its own name.

I have no power to make an award in respect of the considerable distress suffered by individuals associated with S and its predecessor, and in particular I have no power to award compensation to the widow of one of the signatories to the old account. I acknowledge that the situation was very difficult for her, but our investigator was right to say that we can only order compensation for loss or damage suffered by the complainant. Here, the complainant is S – which as a corporate body is not capable of suffering distress.

My final decision

My final decision is that I order Barclays Bank UK Plc to pay compensation as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 18 March 2024.

Laura Colman
Ombudsman