

The complaint

Mr L complains on behalf of his business, R, that Barclays Bank UK PLC has not provided copies of past correspondence, details of bank mandates, and some older bank statements that he has requested via a subject access request.

What happened

Mr L said that in July 2022 the previous director of R was made bankrupt and resigned. And in September 2022 Mr L was appointed a director R. He said that since then he has been trying to 'get hold of the reins' of R by gathering information.

In February 2023 Mr L requested Barclays provide information about R including copies of all correspondence and cheques from 2016, mandates, securities and guarantees used by R and charges on R's assets held by Barclays since it started banking with Barclays in 1985.

Mr L wrote to Barclays in August 2023 to say he had received some information including bank statements from 2017 onwards, but wanted earlier statements and the other information he requested six months ago. He said he's been told that correspondence and mandates hadn't been released by Barclays as this information 'can contain data of another individual'. Mr L thought this was an invalid excuse, and he said the delay was disgraceful.

Barclays said a limited company's details are not personal details and are exempt from disclosure under the data protection regulations. Barclays apologised to Mr L and paid £50 compensation for the delay in sending him bank statements for R.

Mr L remained unhappy as he still lacked the information he had requested, and he referred his complaint to our service.

Our investigator recommended that the complaint be upheld. She said Mr L hadn't received the historic statements from 1985, for which Barclays apologised as they had to be reordered twice. She said Barclays told Mr L his request for letters, mandates and historic statements couldn't be fulfilled as this contains other peoples' data and would need their consent. But Barclays didn't make Mr L aware of this until six months after his initial request.

The investigator thought guidance from the Information Commissioner's Office (ICO) meant Barclays could withhold certain information for data protection purposes. She said Barclays' further advice concluded it can't disclose information to a person not associated with the business for when the information is required. She said it's reasonable for Barclays to deny disclosure of R's documents containing information about people who haven't consented.

The investigator said Barclays told Mr L to submit a subject access request for the remaining information, when it wasn't going to send this. Mr L was not given clear advice until Barclays' response to the complaint, which said a company's details aren't classed as personal data under the regulations, so they are exempt. She recommended further compensation of £150 for Barclays wasting Mr L's time. She said we can't order the documents to be sent to Mr L.

Barclays agreed with the investigator's increased compensation. Mr L disagreed that he couldn't have all the details of correspondence and bank mandates from Barclays about R. He said everything relating to R's bank accounts is relevant and the present directors should be allowed to see it all. Mr L requested an ombudsman review R's complaint.

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.

In her view letter the investigator said that she would only be commenting on this complaint based on events before Mr L had referred questions to his solicitors. I have also considered matters up to that point and so issues arising after that are separate from this complaint.

Barclays provided a list of people with signing rights for R going back to 2003. Mr L wanted the signatories before this, but Barclays said it had no information before this time.

Mr L wants Barclays to provide the information about R he has requested and any additional information arising from a review of what the bank provides. I can see that he would like to see a schedule of R's debts and any charges on assets and securities issued in favour of Barclays. And I can understand why, as a relatively new director of R, Mr L has spent a lot of time pursuing this information - he wants to fully understand R's antecedents and background and he thinks Barclays can assist with this.

Barclays' lack of guidance about what it was and was not prepared to release resulted in delays and some unnecessary steps to be taken by Mr L to gain information to help him to direct R. Barclays apologised to Mr L for taking over two months to provide R's bank statements, and paid him £50 compensation.

From what I have seen, Barclays took around six months to tell Mr L that his request for letters, mandates and historic statements couldn't be fulfilled as this contains other peoples' data and would need their consent. During this time, Mr L was put to a lot of inconvenience in his pursuit of this information. I agree with the investigator's conclusions about this and the award of £150 further compensation which I consider to be fair in the circumstances.

Ultimately, Mr L is concerned that his request for information hasn't been fulfilled and he considers that Barclays' actions are not correct in law. As Mr L will be aware, it is not our service, but the ICO that administers the regulations concerning data protection and access requests. If Mr L hasn't already done so, he may wish to contact the ICO to check whether the legal advice he has obtained about the release of information accords with the ICO's interpretation of the regulations.

Our role is to determine whether a business has treated a customer fairly and reasonably in all the circumstances of a complaint. In this case this turns on whether or not Barclays has responded reasonably to Mr L's requests for information. To reach a conclusion I've looked at Barclays' restrictions on the information it has provided to R.

I can see that Barclays has treated Mr L's requests as involving the personal data of individuals previously associated with R. Barclays has decided that this cannot be released without the consent of the individuals involved and it said this is linked to the data protection regulations not applying to company information.

I have read and considered Mr L's challenge to Barclays' position in that the individuals who previously agreed to be directors of R, by that fact agreed to provide their details to Barclays for R's purposes. Mr L said the documents requested relate to the affairs of R and do not contain any personal details of the previous directors.

I won't prejudice any legal action on this point that Mr L may wish to take, as providing legal rulings is not our organisation's role, it is the court's role. However, I have considered Barclays' response on this point. The data protection regulations define personal data as 'any information relating to an identified or identifiable natural person...'. And state that information about companies 'is not personal data.' ..., '...and does not constitute personal data and does not fall within the scope of the UK GDPR.' According to the ICO the regulations apply to information about identifiable company directors, '...as an individual

rather than as the representative of a legal person'. From what I have seen, I think Barclays' response on this point appears to be fair and reasonable in the circumstances.

Other than the poor guidance and the delay, I think Barclays has treated Mr L's information requests reasonably, and as it would others in a similar situation. It's not within our remit to tell Barclays to provide Mr L with the information he has requested, but he has sought legal advice to assist with this and can make this a matter for the court to determine if he wishes.

My final decision

For the reasons I have given it is my final decision that the complaint is upheld in part. I require Barclays Bank UK PLC to pay Mr L on behalf of R further compensation of £150 for the inconvenience its poor service has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 17 June 2024.

Andrew Fraser
Ombudsman