

The complaint

Mr W complains that Barclays Bank UK PLC has incorrectly administered an account over several years and held him liable for a debt in the name of a partnership (D) with Mr W2.

What happened

This complaint relates to issues that have taken place over several years and date back as far as 2014. Because of the nature of the issues that have taken place and the disputes around what has happened over the years, I'll be addressing much of the background to the complaint as it relates to my findings in the following section of this decision (*What I've decided and why*). But I'll summarise Mr W's interactions with this service below.

When Mr W brought his complaint to this service, one of our investigators initially thought that we couldn't consider it because of the time that had passed since Barclays sent its responses. Mr W disagreed with this and then the investigator said that we couldn't consider it because he wasn't eligible to bring it to us. Again, Mr W disagreed and after some time the matter was passed to another investigator who said that we could fully consider the complaint.

This investigator looked into the matter and said that while it was unclear what exactly has happened here, they were persuaded that the account was a sole trader account in 2014 and only became a partnership account in 2016. They felt that there was evidence that Barclays had made mistakes here. But the investigator said that they didn't have any evidence to support that the mandate completed in 2014 was fraudulent as Mr W said and at the point that the loan was taken out, it was done so in line with this form.

So while they were satisfied that mistakes had been made, the investigator felt that what Barclays had offered to date in terms of the compensation it had offered Mr W was fair and reasonable. They said that was the case when taken in context of some of the potential points of mitigation between Mr W and Mr W2.

Mr W disagreed and said that Barclays had failed in its duty of care. It had also failed to provide the correct documents and maintained that the mandate change form from 2014 had been falsified with his signature. He said that as a result of this, it had allowed Mr W2 to sign up for a loan that he could not afford and caused him (Mr W) an immeasurable amount of stress and time to deal with this.

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.

This complaint relates to events spanning nearly a ten year period. Understandably, a lot has happened over this time and there is much dispute about what may (or may not) have happened between Mr W and Barclays. This service's role is to quickly and informally decide complaints based on what's fair and reasonable in the individual circumstances. This being the case, where information is unavailable, inconsistent, or contradictory – as it is here, then

I reach my decision on what's more likely than not to have happened on balance of the evidence that is available.

In line with our role as a quick informal service, I've also focused on what I feel to be the substantive parts of this complaint. It may mean that I don't go into as much detail as the parties would like or expect – but that doesn't mean I haven't considered all the points that have been made and the evidence that has been provided; it just means that I haven't needed to refer to certain parts of what's been said to reach a decision on what's fair and reasonable here.

Pre-2014

Much of the confusion here relates to the records that Barclays has held for Mr W, Mr W2 and their partnership over the years. Barclays' submissions to this service give a confusing picture of what its position was, in relation to the capacity it held records and accounts for Mr W, Mr W2 and their partnership. Barclays has confirmed that 'records' are set up for an 'entity' – to give an example, D the partnership would be an 'entity'. Then 'accounts' would be linked to the 'record' for an entity.

With that in mind, Barclays has confirmed there has been an underlying issue that has led to some of the problems faced here. Prior to 2014, Barclays' systems show that it had opened a 'record' for Mr W and Mr W2 *in the name of* a partnership – bearing both Mr W and Mr W2's forenames as initials. But, this had been opened with the *entity* marked as a sole trader on Barclays' systems – which is evidently contradictory and incorrect (a partnership can't be a sole trader by definition). The account with an overdraft was then linked to that sole trader entity. This seems to be what led to some of the later confusion here. This is important background to establish when looking at what happened from the point that Mr W's complaint begins – in June 2014.

June 2014 – changes to the mandate

Mr W says that in June 2014, he wanted to give Mr W2 sole responsibility of the partnership and remove himself from the account as it existed at that point. He says he paid off the overdraft at that time to help that happen. I've carefully considered what Mr W has said about this – but this is contrasted with the records from that time, as he and Mr W2 completed a form which is clearly intended to amend the mandate on the account in the name of the partnership, so Mr W2 could act on it individually, as an authorised person.

It seems like the amendment to the mandate wasn't acted on by Barclays at this time because of the issue I've mentioned above with the entity being marked as a sole trader. So at this point, it received an instruction to amend the mandate in line with Mr W and Mr W2's wishes, but this issue prevented that.

Mr W feels particularly strongly that this form has been forged and is fraudulent. But I have seen no evidence to support that this document was forged or falsified in the way that Mr W suggests. I've considered all he's said about this – but viewed impartially and with a lack of any other evidence that contradicts it, it looks to be a genuine request to carry out the instruction that the form is intended for. So at this point I'm satisfied on balance that Barclays would reasonably have treated this as a request from Mr W and Mr W2 - as a partnership - to authorise Mr W2 to act individually on their behalf.

Just days after the mandate is dated, Barclays' systems reflect that there was 'entity confusion'. That was because the mandate request had been submitted and while Barclays' records were in the name of a partnership, the 'entity' it held these records for had been wrongly marked as a sole trader prior to the amendment being received. So there was 'entity

confusion', because Barclays had received an instruction which was in line with the name on the account (D – the partnership) but not with how it held the record for D (as a sole trader entity).

I accept that Mr W's intention around this time may have been as he says, to remove himself from the account. He has been consistent in his testimony around that and he stopped using the account around this time and says he paid off the overdraft attached to the account. But I have to consider both sides of the situation here and I don't think it would have been clear to Barclays that this was the case. There is nothing in its records to indicate this and the records it does have support that the partnership seemed to be ongoing, even if there was an issue with how this was set up on its systems.

Just because Mr W wasn't using the account, that doesn't mean that I'd think it'd be fair for Barclays to have assumed he was no longer part of the partnership either – where it had no evidence of that. This is further supported by the fact that for a considerable period of time after June 2014, there is no further record of any contact from Mr W or Mr W2, despite the fact that statements and other correspondence would have still been sent bearing the partnership's name.

From what I've seen, there were letters sent to Mr W2's address in 2015, some addressed to Mr W's name, some to the name of the partnership. These letters would have shown Mr W2 that Barclays still held the details of the partnership at this point and that Mr W was still party to the account.

So while the records remained marked with D being a sole trader as an entity – the name on Barclays records remained in D's name as a partnership. But equally I can't see that Mr W or Mr W2 acted to correct this themselves or that it caused any problems for around two years. So I think Barclays was entitled to believe that Mr W and Mr W2 were still operating as a partnership at the point it received this amendment to the mandate.

2016 – 2017 – the loan application

It seems that around this time, Mr W2 started to experience difficulties in maintaining the overdraft on the account. Mr W has asked why, if he was the 'true owner' of the account at this point, was he not contacted by Barclays about the situation. But Barclays seems to have held Mr W2's address as the address for the partnership from June 2014 onwards. I've seen that it did write to Mr W, mentioning the partnership – but these letters were sent to Mr W2 in respect of the partnership. As Mr W says he is unaware of any contact during this time, it doesn't look like Mr W2 ever updated him as to these letters – but that's not something I can fairly say that Barclays is responsible for.

In September 2016, Mr W2 contacted Barclays about the overdraft on the account, but the next real entries of note from Barclays' records are in December 2016. There is a record that Barclays was trying to change the legal entity on its systems again and that only Mr W was showing on the system at that point. It's unclear why that is – but based on the sequence of events here, that seems to be an error with Barclays' systems. At this point, Barclays used the mandate from June 2014 to add both Mr W and Mr W2 as signatories and believed that it had done so correctly.

It does seem strange to have suddenly acted on an amendment to a mandate from several years ago. But equally, everything I've seen here supports that the amendment was genuine and that systems problems at Barclays end had prevented that from being acted on. So when Barclays finally took this action to make the amendment – I think it was doing so with a view that it was taking corrective action. I haven't seen anything that makes me think Barclays acted wrongly, or unfairly in doing this.

This action is reflected on 13 December 2016, when Barclays seems to have created a record for the partnership. It changed its records to reflect that D was a partnership as an entity and moved the account with overdraft under this record. As far as Barclays knew at this point, it was acting correctly. But it also seems like a sole trader entity record existed alongside this too, which would go on to create further confusion.

On 22 February 2017, Mr W2 contacted Barclays and asked about getting Mr W removed from the mandate. I'm satisfied on balance that this was the first point that I think it'd be fair to say that Barclays would have known there was any issue in relation to Mr W's continued presence on the account – although I realise Mr W will see things differently. At this point, I think it's reasonable that Barclays still believed that D was a partnership and that by creating a partnership record with the overdraft account under it – that it was acting correctly.

Barclays records show that a Resolve Loan application was processed on 28 February 2017 to restructure the overdraft on the account, although the loan wouldn't be drawn down until after Mr W2 signed the agreement on 6 March 2017. In between this time, Barclays also received a request to change the mandate to remove Mr W on 2 March 2017. It couldn't complete this as Mr W was still the 'owner' of the account.

So clearly at this point, Mr W2's actions supported that he wanted to remove Mr W from the account – but that wouldn't have been possible because to do so would mean that he was being removed from an account in the name of a partnership, which wouldn't be right. What was needed at this point was Mr W's involvement and authority to remove himself from the account and restructure any debt and holdings into Mr W2's name alone.

On the one hand, I can see why it might seem fair for Barclays to have contacted Mr W at this stage, as he was still a named customer on the records and account – or to have perhaps paused on the application given what Mr W2 was saying. But equally, Mr W2 was aware of the situation at this point and knew that Barclays had the account in the name of the partnership. While Barclays records and systems were still inconsistent at this point, it seems like the more underlying issue here was one of communication between Mr W and Mr W2. That's not something I think it'd be fair to hold Barclays liable for.

On 6 March 2017 Mr W2 then signed an agreement for a resolve loan – restructuring the existing overdraft borrowing that was in the partnership's name. Barclays accepted that on the basis that Mr W2 was authorised to act for the partnership and that the loan was being taken out by, and for, the partnership and so both he and Mr W were liable for it. This accurately reflects the fact that the last formal instruction it received from both Mr W and Mr W2 was the amendment to the mandate from June 2014 which it had now put in place as of 2016. So when it agreed the loan as it did here, I think it did so fairly in the circumstances.

Is it fair that Barclays is still holding Mr W liable for the loan?

At the point the loan was approved, Barclays was aware that there was confusion about what the correct entity was on its systems and it also had a request (which it couldn't act on) from Mr W2 to show he wanted to remove Mr W from the account. Yet Mr W2 still completed an application for lending in the name of the partnership and Barclays still approved it.

When Mr W2 applied for the loan, the agreement he signed made him aware that he was doing so on behalf of both him and Mr W, trading in the name of the partnership. I can't see that Mr W2 made Mr W aware of this and I think that's a crucial point of mitigation. Barclays weren't to know the full nature of the situation here between Mr W and Mr W2 based on what I've seen of its records. Mr W2 made a choice to proceed and sign a loan agreement that clearly explained that the loan was for him and Mr W as a partnership and that Mr W would be held liable for it alongside him.

Mr W says he was completely unaware of this at the time, but Barclays believed that Mr W2 was able to act individually on behalf of the partnership based on the amendment to the mandate that was in place and so accepted the application.

Barclays accepted the loan application based around the fact that Mr W and Mr W2 could both be held liable for it. The loan was intended to assist with the overdraft that was in place for the partnership. I don't think it'd now be fair for me to expect Barclays to have to unwind that arrangement - which has been in place for a number of years and seems to have helped Mr W2 in the long term. That could have implications for both Mr W and Mr W2 – but also for Barclays, given how the loan is set up. I say this as ultimately if I were to tell Barclays to unwind the agreement and not pursue Mr W, it'd now be providing that lending on a different basis to that which it was approved on.

As I understand it, Mr W2 accepts liability for the loan and, up until recently (at the time of this decision), was up to date with payments. But when Mr W2 recently defaulted on a payment, Mr W was contacted. In line with the above though – I think Barclays is entitled to have contacted him about this where he is named on the loan agreement. I realise Mr W strongly disagrees and that he has tried to speak to Barclays about this (which I'll come onto). But many of Mr W's interactions with Barclays have focused on him not having liability for the loan and the fraudulent nature of the mandate from 2014 which he believes is forged.

I think what is needed here is that Mr W and Mr W2 need to work with Barclays to find a way of restructuring this borrowing that works for all the parties involved here. It's not this service's place to get involved in that, or suggest what form that may take. Our role is to decide what's fair and reasonable in the circumstances of a complaint. In doing so here, I think it's fair that Barclays continues to pursue Mr W for the loan and so if Mr W (and Mr W2) want to change that, he'll need to engage with Barclays to find a way that can work for all parties.

While I see Mr W's concerns around the loan and I accept that he wasn't aware of this – I don't think I have sufficient reason to say that Barclays shouldn't pursue him for this or that it should write off or reduce the balance of the loan in the way he suggests. Ultimately the loan here was approved in the name of the partnership and was based around a mandate that was completed showing that Mr W2 was able to act individually on behalf of the partnership in matters like this. While he told Barclays just a few days before the signing of the loan agreement that he wanted to remove Mr W from it – that wasn't the same as making a formal change to the existing mandate, which didn't happen here.

So I think Barclays is entitled to seek repayment of the loan from Mr W. I've seen nothing in arrangements for the loan to support that this was irresponsible or unaffordable as Mr W has suggested. It was intended to help restructure an overdraft in the partnership's name and appears to have largely met that purpose, even if payments have been occasionally missed.

Barclays' handling of the situation after the loan was approved

In early 2017, Mr W2 complained to Barclays – saying that because of the way the account was set up, he had difficulties arranging a loan. Barclays responded in April 2017 to say that the request to set up a partnership happened a long time ago. It said it couldn't remove Mr W from the records without further contact from him directly, but despite Barclays attempts to contact him – the relevant team hadn't been able to speak to him. Barclays offered Mr W2 £100 for the time taken to respond to the complaint.

But no change was made to the mandate and so Mr W remains the 'owner' of the account. Barclays then starts the process to create a new partnership account. Barclays was made aware at this point that Mr W has retired now and is no longer in partnership with Mr W2 and so Barclays cannot create a new partnership account without the overdraft debt being paid off and the owner (Mr W) contacting it.

In June 2017, there is a record that Barclays wrote to Mr W at Mr W2's address about a missed payment. This is followed by a further note on Barclays' systems showing that it told Mr W2 that it can't remove Mr W from the account and that he would need to pay off the overdraft before the account could close.

During this time, Mr W says he was unaware of the situation. It didn't start having an obvious impact on him until 2018, at which point he was contacted about the debt after Mr W2 failed to make some payments and was made aware of it. Barclays' timeline shows that Mr W called it in May 2018 about who was on the mandate and gave Mr W2 authority to discuss it as an authorised signatory. But it was in September 2018 that Mr W first stated that he had been contacted about the account and knew nothing about it.

In January 2019 Barclays explained why Mr W was being held liable for the loan but compensated him £200 for the confusion resulting from the entity type on its records. After this point, Mr W's focus becomes the 2014 mandate which he views as forged and the fact that Barclays is holding him liable for the loan.

Barclays' handling of this situation had clearly been very confusing and frustrating for Mr W by this point. I think the £200 it paid was fair for the impact this had on him. But this January 2019 response explained what the situation was and why he was being held liable for the loan in question. So at this point, I think that Mr W was aware of why he was being held liable for the loan – even if he continued to disagree with Barclays' stance on the matter.

Later, in June 2021, Mr W then complained to Barclays about the previous points he'd raised but also mentioned the fact that a relationship manager failed to show at a scheduled appointment. Barclays responded to this to say that the reason the relationship manager didn't attend was a system error. It offered £200 for this.

Barclays maintained that the mandate from 2014 was genuine though. It said that at one point it did try to correct its records to show a partnership but this was rejected and a separate record was created which held the loan. Barclays stated that when Mr W contacted it in 2019, he didn't tell them he had a sole trader account previously which had been closed and a new account set up in 1996 when he entered into the partnership with Mr W2.

Barclays said had it been aware of this then it would have just corrected the records to show the partnership. Barclays explained that it couldn't just add a new signatory to a sole trader entity or remove a partner from a partnership entity. It would have always needed to have set up a new record – but as the partnership no longer existed at this point – it couldn't do that. Barclays said it would merge the incorrect sole trader records with the partnership records to reflect the 'true status'.

I think it's fair to say that after Mr W first contacted Barclays about this, its responses to Mr W and the service it provided were confusing, frustrating and clearly affected Mr W's faith in what Barclays has subsequently told him. Barclays' responses focus on its systems and records in a way that would, I think, have been difficult for Mr W to follow and understand. I think this would only have been compounded by its responses taking some time and its relationship manager failing to attend a scheduled appointment. It's only fair that Barclays acknowledges the impact this would have had on Mr W – and it has by paying him £400. I think that's a fair amount to recognise the impact of its service failings, so I don't think Barclays needs to take any further action now.

Conclusions

I understand Mr W's arguments around what he believed had happened in 2014. But I'm satisfied that, while the records here are confusing, Barclays has acted fairly in relying on the mandate from June 2014. For the reasons given elsewhere in this decision, I'm then satisfied that it acted fairly in setting up the loan, including Mr W's name, in the name of the partnership in 2017. So in respect of these points – I don't see that I can ask Barclays to take any further action. Mr W will need to discuss the situation with Barclays together to agree a suitable way forward for all three parties if the position is to change.

But Barclays' handling of its records in relation to Mr W and the partnership along with his interactions with it since 2018 have been extremely confusing. It was only in January and February 2019 that I can see that Barclays explained the situation to him in respect of why he was being held liable for the loan. There were still then other issues after this time until Barclays finally responded to those in 2021.

But Barclays has, in my view, fairly acknowledged what those issues were and the impact they would have had on Mr W. It has paid a total of £400 for those and I think that is fair and reasonable in the circumstances. I realise this isn't what Mr W wants to resolve his complaint and I don't doubt he'll be dissatisfied by my findings here – but I won't be telling Barclays that it needs to do any more here.

My final decision

Barclays Bank UK PLC does not need to do any more to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 26 July 2024.

James Staples
Ombudsman