

## The complaint

Mr O complains as a partner of O, a partnership, about Lloyds Bank PLC placing a block on O's business account.

## What happened

Mr O, together with his late brother, were in an equal business partnership in O and were the joint holders of O's business account with Lloyds Bank. Mr O's brother passed away so Mr O contacted Lloyds Bank in July 2019 to ask if he could continue trading as a sole partner to ensure his business wasn't affected. Mr O says he was told he would need to open a new business account in O's name and the account balance of £103,000 would be transferred into the new account. Mr O says he followed these steps but then contacted Lloyds Bank when the funds weren't transferred. Mr O says he then found out that O's business account had been frozen by his late brother's son – who was executor of Mr O's late brother's estate. Mr O says he chased Lloyds Bank a number of times over the next few months to sort out the issue but Lloyds Bank refused to remove the block on the basis there was a dispute.

Mr O complained and Lloyds Bank responded in November 2019 and explained there appears to be a dispute between Mr O and the personal representatives of his late brother's estate, over the ownership of the funds in O's business account. Lloyds Bank said it's not their role to decide on the ownership of funds in an account, so they placed a block on the account pending confirmation of the true ownership of the funds to safeguard the interests of both parties. They said this is normal banking practice in circumstances such as these. They said, given the possible commercial implications on O of the block placed on its account, Lloyds Bank were willing to allow critical payments, such as employee wages and payments to suppliers, to be made from the account. They said, this is provided both sides confirm to them that the payments are to be made from the account. Lloyds Bank said they have already previously informed Mr O and his solicitor, and the solicitors acting for Mr O's late brother's estate, of this.

Mr O's solicitor then wrote to Lloyds Bank and explained Mr O had exercised an option to purchase his late brother's shares which meant he was sole owner of O and its business account. Lloyds Bank then lifted the block on the account. The funds were then transferred to Mr O in August 2020. Mr O says he doesn't understand why Lloyds Bank decided to release the funds now as nothing had changed since he first requested the release of funds.

After considering all of the evidence, I issued a provisional decision on this complaint to O and Lloyds Bank on 9 March 2022. In my provisional decision I said as follows:

*"The issue here relates to Lloyds Bank placing a block on O's account on the basis there was a dispute. The terms and conditions of O's account say business customers should let Lloyds Bank know as soon as possible if there is a partnership dispute. It goes further to say, if the dispute becomes serious, they'll have to freeze the account until it's resolved and "This means that neither of you will be able to take any money out of the account (or carry out any other transactions)." The terms and conditions do allow Lloyds Bank to freeze an account in the event of a partnership dispute. So, while I can't say Lloyds Bank have acted outside of the terms and*

conditions, I've looked to see whether Lloyds Bank were reasonable in their view that a partnership dispute existed.

Mr O's solicitor wrote to Lloyds Bank on 3 July 2019 to say he acts for Mr O. He says Mr O's brother has passed away but, prior to this, he was in dispute with Mr O about the ongoing Partnership. He says no consensual solution was reached between the parties. He says Mr O is now the sole remaining partner of the business and it has been common ground between Mr O and his late brother that their business has been governed by a Partnership Agreement – and he encloses a copy. The solicitor refers to a clause within the Partnership Agreement which allows Mr O to purchase his late brother's share in the business. He says Mr O is presently considering whether to exercise that option but in the meantime he's focussed on overseeing the continuity of the business. He says that all arrangements in relation to O's bank account should be dealt with by Mr O alone.

Mr O's solicitor wrote again on 26 July 2019 to say he hasn't received an acknowledgment or reply to his letter of 3 July. He notes Mr O has opened a new bank account allowing him to continue as a Sole Trader. The solicitor says Mr O has told him that Lloyds Bank said he couldn't have access to the funds in O's account until probate has been granted for his late brother's estate. The solicitor says this isn't correct as the Grant of Probate has no bearing on the matters relating to the Partnership. The solicitor asks Lloyds Bank to give Mr O immediate access to the funds in O's account. The account was then blocked on 31 July.

The solicitors for the personal representatives wrote to Lloyds Bank on 12 August to say they understand Mr O has indicated that the funds should be transferred to his Sole Trader account. They say they aren't in agreement with this and wish to ensure the executors are aware of dealings in respect of O's account. I can see Lloyds Bank's internal legal team looked into this in September and their view was that they would need to seek confirmation whether any funds in the account, or shares in the Partnership, are entitled to be passed to Mr O's late brother's estate.

Mr O then exercised the option to purchase his late brother's shares and his solicitor emailed Lloyds Bank and provided a copy of the Option Notice, which is dated 11 September 2019. Lloyds Bank responded on 24 September acknowledging receipt of this. Lloyds Bank say the Option Notice has been noted but it's a matter between Mr O and the personal representatives of his late brother's estate. I can see there's further communication after this point between Mr O and Lloyds Bank around the account block.

Lloyds Bank wrote to Mr O on 3 June 2020 to say Mr O had asked them to provide a letter for the benefit of the court explaining why they had blocked O's account. Lloyds Bank explained it's not their role to decide who the funds belong to in a customer's account and they don't propose to do so. They referred to their complaint response and said they had taken the commercial decision to block O's account when they became aware of a dispute between Mr O and the personal representatives of his late brother's estate, over the ownership of the funds in O's account. They say they did this pending confirmation of who truly owns the funds and was to safeguard the interests of both sides. They say, since they haven't received confirmation from both sides that the dispute has been resolved, their position remains the same.

Mr O's solicitor wrote to Lloyds Bank on 15 June to say he has acted for Mr O since he was instructed in connection with a dispute between Mr O and his late brother. The solicitor refers to correspondence he sent Lloyds Bank to allow Mr O to operate O's bank account without restriction, on the basis that he is the sole surviving partner

*in the partnership of O. The solicitor says Lloyds Bank aren't entitled to freeze O's account in the circumstances which now exist. He says the fact there's an acrimonious dispute between Mr O and the personal representatives of Mr O's late brother's estate (which was now subject to Arbitration) does not impact on O's bank account. He says it's common ground that the Partnership is governed by a Partnership Agreement. And, he says, as a matter of law, although the personal representatives have an interest in relation to Mr O's brother's share in the Partnership, they don't have any legal status as partners – they don't step into his shoes.*

*Mr O's solicitor says the entitlement of the personal representatives is merely to receive an account, which they will in due course. He says this will arise out of the Partnership Arbitration. The solicitor says the Partnership Agreement contains an option provision. He says Mr O served a valid and effective notice to exercise the option to purchase the interest of his late brother's estate in the Partnership. He says the purpose of the Arbitration is to establish the price to be paid by Mr O in relation to the exercise of the option. The solicitor says, therefore, O's business account falls to Mr O who has acquired the interest pursuant to the exercise of the option. He says it's also critical to the ongoing business for O that Mr O has access to O's funds. The solicitor appears to be making the point that the Partnership Agreement allows Mr O to exercise an option to purchase his late brother's interest in the Partnership – and that's what he's done. The solicitor makes the point that the Arbitration is to decide what Mr O should pay to purchase his late brother's interest and not in relation to any aspect of the ongoing trading of the business. The solicitor asks Lloyds Bank to consider this in order to avoid continuing hardship for the ongoing trading of the business through the freezing of O's account.*

*Having not heard back, Mr O's solicitor chases on 2 July. I can see Lloyds Bank's internal departments considered this further. They refer to Mr O's solicitor's letter and say he's suggesting that Mr O effectively exercised the option to "buy out" his late brother's share. They say, it would appear that the parties are currently in dispute over the price paid, rather than disputing that the option was exercised. They say they need evidence that the option was exercised and that the funds due to be paid out to Mr O's late brother's estate were paid, therefore transferring the share of the partnership to Mr O.*

*The internal colleague says they agree that the blocks should have been placed on the account pending confirmation of the ownership of funds remaining in the account. And, they say they need to see evidence that the interest in the Partnership had been transferred.*

*Lloyds Bank then get in touch with Mr O's solicitor to ask for evidence of the Option Notice. The solicitor responds on 15 July and provides a copy of the Option Notice, evidence of it being sent to the solicitors for the personal representatives on 11 September 2019 and their reply dated 15 October 2019 which says their clients "...do not take issue with the validity of the Option Notice or the basis on which it was exercised."*

*An internal department then replies to their colleague on 16 July saying they have spoken with Mr O's solicitor who has provided a copy of the Option Notice showing Mr O has exercised his share purchase option in line with the Partnership Agreement. They say Mr O's solicitor's argument is that, since Mr O has exercised his option, the partnership account falls to him, and the purchase price – which is yet to be determined - is irrelevant to the account and strictly between Mr O and his late brother's personal representatives. An internal colleague then replies and says, it does appear as though the option was exercised in line with the Partnership*

*Agreement and therefore Mr O has taken control of the business. They say, on this basis, they are comfortable with the block being removed and Mr O, the remaining partner, being the sole signatory to the account*

*Lloyds Bank then wrote to Mr O's solicitor on 16 July to confirm they were now willing to remove the block on O's account and provide Mr O with the necessary access to the funds. Mr O's solicitor wrote to Lloyds Bank on 14 August to say the funds still haven't been released to Mr O – he asks for this to be done without further delay. Mr O says the funds were transferred to him on 15 August.*

*Taking this all into account, it's clear there was a dispute between Mr O and the personal representatives of his late brother's estate. So, once notified of the dispute, I don't think it was unreasonable for Lloyds Bank to freeze the account. I say this for a number of reasons. The terms and conditions allow Lloyds Bank to take this step and it's clear from all the information they'd received from Mr O and the personal representatives that there was a dispute. In addition to this, Mr O's solicitor's letter on 3 July 2019 suggests Mr O's late brother had passed away while there was an ongoing partnership dispute with Mr O. At the point the account is frozen, there's no suggestion that any evidence was sent to Lloyds Bank which would suggest the personal representatives had no interest in the funds in O's account. And, importantly, Mr O hadn't at that point exercised the option to purchase his late brother's share of O. However, while I don't think the original application of the block was unfair, I do think Lloyds Bank have made an error in keeping the block in place for the length of time they did.*

*The Partnership Agreement does contain a provision for a surviving partner to exercise an option to purchase the shares of any partner who has passed away. Although the Partnership Agreement doesn't make any provision for how much the shares should be purchased for, it does suggest that a surviving partner, by exercising the option, would in effect be buying out the shares of the partner who had passed away. I've looked at the Option Notice which was sent and received by Lloyds Bank on 24 September 2019 and this contains a declaration that Mr O has exercised the option to purchase the shares of his late brother in O – and "This notice shall take effect immediately." The Option Notice also sets out how the price of the shares are to be calculated.*

*It's not my role to decide the legal position in relation to the Partnership Agreement and the effect of the Option Notice. But, in deciding whether Lloyds Bank have acted unfairly, what I find most persuasive here is Lloyds Bank's reasons for lifting the block.*

*It's clear this was a complicated matter with arguments being put forward by solicitors representing Mr O and the personal representatives. And, given the complex nature of the submissions being made, Lloyds Bank continued to liaise with their internal legal department. The case is considered in July 2020 and it's clear the legal department's focus at this point is on whether Mr O exercised the option to purchase his late brother's share.*

*Accordingly, Lloyds Bank ask for evidence of this from Mr O's solicitor, which he provides. This is then considered by the legal department and their view is that Mr O has exercised his option in line with the Partnership Agreement and has therefore taken control of O – and the blocks can therefore be removed.*

*The information considered by Lloyds Bank here, and on which they made the decision to lift the block, is information they had since 24 September 2019. At this point they already had the Partnership Agreement and the Option Notice then*

*followed on 24 September. I can see there were requests for further information since 24 September, such as a completed bereavement form and Grant of Probate, but I can't see they featured in Lloyds Bank's reasoning for lifting the block in July 2020.*

*Lloyds Bank refer to the terms and conditions and say they had a duty to protect the interests of any personal representatives of the estate of a partner who has passed away. Looking at the terms and conditions, Lloyds Bank appear to be referring to section 8 which sets out the position if a partner has passed away. This says "If the account is in credit, the personal representatives of the deceased will have the same claim to the money as the ex-partner had while alive..." I do understand Lloyds Bank's point here and that's why I don't disagree they had acted reasonably when first applying the block. At that point, given the information they had, there wasn't anything to suggest the personal representatives didn't have any interest in the funds in O's account. I believe the position changed however once Mr O exercised his option because, at that point, and as Lloyds Bank's legal department have recognised, Mr O, being the sole surviving partner in O and had taken control of O. So, I don't believe section 8 of the terms and conditions still applied at this point. And, importantly, Lloyds Bank don't rely on this as a reason to keep the block in place when their legal department considered the issue in July 2020.*

*Lloyds Bank say it wasn't until they received sufficient evidence from Mr O's solicitor in July 2020 that they were able to remove the block on O's account and transfer the funds in line with Mr O's request. They say the information included a letter from the solicitors acting for the personal representatives confirming they don't take issue with the validity of the Option Notice. Lloyds Bank say, on receipt of this confirmation, they arranged to remove the block. I can't see this letter was sent to Lloyds Bank previously. But, I'm not persuaded this was the key factor behind Lloyds Bank's decision. The communication between the legal department refers quite specifically to the Partnership Agreement and the Option Notice – and how this leads to their reasoning to remove the block. I can't see the legal department have referred to this letter in their discussion and this being a persuasive factor in their decision. I think it's also important to add that, if Lloyds Bank did feel this confirmation from the personal representatives solicitor was important – and a factor which would've led to the block being lifted sooner – then they could've asked Mr O or his solicitor for this. The letter is dated 15 October 2019 so it's something which could've been provided and led to the block being lifted much sooner.*

*Taking this all into account, I think Lloyds Bank have acted unfairly in leaving the account block in place beyond September 2019. This means the block was in place, when it shouldn't have been, for nearly 10 months. This meant 10 months where Mr O couldn't trade using the funds from O's account and there being significant limitations and problems in continuing with his business. I've read Mr O's testimony on the impact this has had on him and his business and I have no doubt this has had a very severe impact on him.*

*Mr O says he was unable to pay suppliers and other services necessary for the normal running of his business. He says he was unable to recruit extra staff so had to carry out many more hours of work himself which caused physical exhaustion. He had to rely on his wife's income for living expenses and had to borrow money from his mother. He says the whole incident has had a significant effect on his reputation with suppliers with who he had previously enjoyed a long-standing relationship. Mr O has also provided medical evidence which confirms he has been under significant stress.*

*It's clear the business was Mr O's source of income and he has been left for 10 months without access to the money in the account and being restricted in the normal running of his business. I think Lloyds Bank's error has caused sustained distress over a significant period of time which has affected Mr O's health. And, there has been severe disruption to his daily life which has lasted almost a year. I therefore think Lloyds Bank should compensate Mr O for the severe upset, inconvenience and trouble caused to him. I think compensation of £4,000 is fair and reasonable in the circumstances.*

*Mr O is also asking for Lloyds Bank to pay for the solicitor's costs he has incurred in having to instruct them to deal with the block placed on the account. I can see Mr O's solicitor has provided a letter where he estimates he has carried out 25-30 hours of work at £360 per hour. He says his costs are in the region of £9,000. The first point I would make is that Mr O's solicitor accepts that, in dealing with this issue with Lloyds Bank, he didn't run a separate file and often he would discuss these matters with Mr O where part of the discussion related to this issue, but part wouldn't. I think Mr O's solicitor's letter of 3 July 2019 to Lloyds Bank supports this as it refers to the solicitor acting for Mr O in relation to the long-standing partnership dispute. I can't see Mr O's solicitor has provided a Schedule of Costs setting out precisely what work was carried out and when. That said, it's clear Mr O's solicitor has carried out work as evidenced by his letters to Lloyds Bank.*

*I think it's important to add, it's not my role to carry out a detailed examination of the costs but I do feel it's fair for Lloyds Bank to be, at least in part, responsible for these costs. I think it's fair for the starting point for this to be 24 September 2019 as that is when I believe the block should've been lifted. I can see Mr O's solicitor did send letters prior to this, but, for the reasons I've set out, I don't think it was unreasonable for a block to be in place up to this point. From that point, from the information that's been provided to me, I can see Mr O's solicitor has four main interventions. This being, the letter of 15 June 2020, the chaser on 3 July, then providing the information requested by Lloyds Bank and then chasing them in August. I think it's fair to apply an hour's work to each of these actions. I recognise that a chaser won't have taken as much time as a substantive letter but I feel an hour for each action is a fair balance as the letter of 15 June is very detailed and likely to have taken more than an hour's work. So, four hours at the solicitor's hourly rate would arrive at costs of £1,440.*

*I can see Mr O says, due to O's account being frozen, he was unable to pay a former employee's salary. So, the former employee took legal proceedings against O at an Employment Tribunal. Mr O says Judgment was made in favour of the former employee and this led to him being awarded over £25,000 plus his legal costs of nearly £7,500. Mr O says his own solicitors' costs for defending the claim were just over £38,000. I've read the Judgment for this employment claim but I'm not persuaded these costs have arisen as a direct result of Lloyds Bank's error.*

*The Judgment refers to the claim being for unlawful deduction of wages, compensation for untaken annual leave and constructive unfair dismissal. Part of the dispute does involve the former employee not being paid his salary but the Court Judgment refers to a date in August 2019, and the former employee not having been paid for three months. This would suggest the dispute started in May 2019 - which was before O's account was blocked.*

*The Judgment does make reference to Mr O saying in evidence that he didn't pay the former employee because O's business account had been frozen and he blamed the former employee for the fact of it being frozen. But, I can't see this argument is*

*accepted by the Tribunal and there's reference to other more longer standing issues leading to Judgment being made in favour of the former employee. So, I won't be asking Lloyds Bank to meet these costs."*

So, subject to any further comments from O or Lloyds Bank, my provisional decision was that I was minded to uphold this complaint and require Lloyds Bank to pay compensation of £4,000 to Mr O as well as £1,440 towards his legal costs.

Following my provisional decision, Lloyds Bank have responded to say they accept the recommendations for settlement of this complaint. Mr O has responded and says he accepts the decision in order to draw a line under the process. Mr O has however made some further points. He feels the points made about the Employment Tribunal claim aren't accurate and the claim doesn't date back to 2017. He says the basis of the claim started in 2019 and was as a result of Lloyds Bank not lifting the block to allow him to pay his former employee. Mr O says there's no mention of Lloyds Bank blocking the account following a phone call from an employee and personal representative of his late brother's estate. Mr O also feels the recommended compensation award and payment towards his legal costs isn't fair.

Given that both parties have responded and agree to the redress set out in my provisional decision, I see no reason to delay making a final decision. I will however address Mr O's further points, below.

### **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.

Having done so, I see no reason to depart from my provisional decision. So, I've decided to uphold the complaint for the reasons set out in my provisional decision and copied above.

I note Mr O feels the account being blocked was a central issue in the Employment Tribunal claim and the costs which followed are a direct result of Lloyds Bank's error. I agree there is mention of the account being blocked in the Judgment but this is in the context of a submission put forward by Mr O. The Judgment refers to three heads of claim and, while the account being blocked might well relate to one of those claims, it's clear the substantive issues relating to that particular claim existed before the account was blocked.

Mr O says there's no mention of the personal representative phoning Lloyds Bank to block the account. I have referred to this in my provisional decision. I think it was clear there was a dispute between Mr O and the personal representatives of his late brother's estate. So, I don't think it was unreasonable for Lloyds Bank to have placed the block initially. In relation to the recommended redress, I do note Mr O's point, but I've set out my reasoning for why the compensation award and payment towards legal costs is fair and reasonable in the circumstances of this case. And, I haven't been provided with any information which persuades me that a higher award, to what I've recommended, should be made.

### **Putting things right**

I've taken the view that Lloyds Bank have acted unfairly in keeping the account block in place beyond September 2019. This has caused sustained distress to Mr O over a significant period of time which has affected his health. And, there has been severe disruption to his daily life. So, Lloyds Bank should pay Mr O compensation of £4,000. Mr O has also incurred solicitor's fees in dealing with the account block, so Lloyds Bank should also pay £1,440 towards those costs.

**My final decision**

My final decision is that I uphold the complaint. Lloyds Bank PLC must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask O to accept or reject my decision before 20 April 2022.

Paviter Dhaddy  
**Ombudsman**