

The complaint

W a company, complains that Barclays Bank UK PLC closed its account. W would like compensation. W is represented by its director Mr T.

What happened

W had a business account with Barclays. Mr T contacted Barclays to let them know he would be receiving an investment of 40 million USD.

Following this Barclays carried out a review. Following the review, they took the decision to close W's account. They wrote to W on 22 March 2021 and gave it 60 days' notice. The account closed on 25 May 2021.

As part of the review Mr T was asked some questions by staff at Barclays and provided Barclays with information about the nature of the investment into W.

Mr T has said he found the nature of the questioning inappropriate and racially motivated.

W complained to Barclays. They said they were entitled to close W's account and had relied on and complied with the terms and conditions of the business account.

Mr T was dissatisfied with the response, so he complained to our service. One of the adjudicators looked into the complaint. She thought Barclays were entitled to close the account and didn't have to give Mr T their reason. She didn't think the closure of W's account was racially motivated and she didn't think Barclays had acted unfairly.

W represented by Mr T was unhappy with the view. Mr T said he thought the closure was racially motivated. He also said he wanted to know whether if he had not contacted the bank his account wouldn't have closed.

As there was no agreement the matter came to me, and I issued a provisional decision.

In my provisional decision I said:

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything that Mr T and Barclays have said before reaching my decision.

Account review

I'll start by setting out some context for the review of W's account. UK legislation places extensive obligations on regulated financial businesses. Financial institutions must establish the purpose and intended nature of transactions as well as the origin of funds, and there

may be penalties if they don't. This applies to both new and existing relationships. These obligations override all other obligations. I am satisfied Barclays were complying with these obligations when they reviewed W's account.

I know Mr T informed Barclays that he was due to receive a large investment into the company. I can see that this was an unusually large amount for the company and would have prompted Barclays to request information from Mr T about the funds. Mr T has said he doesn't think Barclays would have reviewed the account had he not contacted them about the upcoming investment. However, I disagree, because of the ongoing obligations all financial businesses have its likely that Barclays would have reviewed the account and the payment once it was received.

Mr T has mentioned he provided Barclays with some documents but wanted to provide more but Barclays didn't require the extra documents Mr T had. In addition, Barclays staff asked Mr T some information which he has suggested they already held about him. He thought the questioning was inappropriate and constituted racial discrimination.

I understand from Barclays that the telephone conversation wasn't recorded so I haven't been able to listen to this call.

Account closure

Following the account review Barclays gave W 60 days' notice to close the account dated 22 March 2021. The account was due to close in May 2021.

Mr T has said he is aware that a bank is entitled to close a customer's account. He is concerned that the reason his account was closed was racially motivated.

The adjudicator has mentioned it's generally for banks to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a good reason to do so, this service won't usually say that a bank must keep a customer or require it to compensate a customer who has had their account closed.

Banks should, however, give reasonable notice before closing an account. Usually that means 60 days' notice, but it can be less depending on the circumstances. I can see that Barclays wrote to W on 22 March 2021 and let W know it was closing W's account giving 60 days' notice. So, I'm satisfied Barclays closed the account in line with the account terms.

The crux of W's complaint as expressed by Mr T is that he believes W's account was closed for racially motivated reasons. I have looked at the information provided by Barclays to this service. Having reviewed this I am satisfied that Barclays didn't close W's account for racially motivated reasons.

Mr T has said that the questions he was asked by the Barclays staff member were inappropriate and constituted racial discrimination. While I appreciate this is his perspective, it is not my role to decide whether discrimination has taken place as a matter of law – only the courts have the power to decide this.

However, I can look to see if the Barclays have treated Mr T fairly specifically in the conversation that he had with a member of staff as part of the know your customer (KYC) process.

It is unfortunate that no phone recording exists of the call between Mr T and the member of staff at Barclays. However, I have contacted Barclays and requested information about the

types of questions Barclays would ask its customers whilst conducting a KYC review.

I understand that there is no set of questions or templates that Barclays staff follow to carry out these reviews and that the nature of the questions are to try and ascertain the nature of the business.

Mr T has said during the conversation he was asked questions about his parents' place of birth and passport. Barclays have said that the decision to terminate the account was not based on the questions asked during the call. I have seen notes that suggest that the Barclays representative doesn't remember the questions they asked and there are no detailed notes of the questions that were asked in that conversation.

I asked Barclays for their comments in relation to Mr T's allegations. And for clarification regarding the questions they normally ask. And whether the questions asked in this case would have been in line with what was normally asked during a KYC review.

The reason for this is to give me an understanding of the type of questions that are generally asked and whether Barclays went beyond the necessary questions in its conversation with Mr T.

Barclays said the questions asked were part of a usual KYC process. Barclays have provided me with examples of the types of questions asked but this is not a script. They have said the aim of the conversation is to find out the nature of the business.

Barclays have also said that there is no evidence that their staff member acted unfairly towards Mr T. However, Mr T maintains that the questions asked of him were inappropriate.

I appreciate that there is no outside record of the conversation, no recording and no notes. Mr T has said the questions about his parents' nationality were asked. I would expect Barclays to keep good records of the conversations they had with customers especially in the absence of call recordings. This isn't the case here. Because of the lack of evidence to the contrary I am inclined to believe what Mr T has said about the nature of the questions he was asked by Barclays staff. This leads me to conclude that Barclays didn't treat Mr T fairly when it asked certain questions of him during the KYC process.

However, I am not saying that Barclays were unfair when they closed W's account. I have already mentioned above that Barclays acted fairly when it closed W's account. Had Barclays asked the correct questions and not asked Mr T unfair questions I am satisfied that Barclays would have still closed W's account.

Impact on W

I am sure that the questions asked of Mr T would have caused him a great deal of distress, he has mentioned to this service how he felt and how frustrated he was with the reaction of Barclays when he raised the issue.

Although I am satisfied that Barclays did treat Mr T unfairly during the KYC process and particularly in the questions he was asked in the conversation with Barclays staff member. I am unable to award Mr T compensation for that distress.

The reason for this relates to our jurisdiction. Mr T has suffered distress but the complaint we are dealing with is in relation to the company W. W is the complainant. W is a limited company and as such cannot suffer distress in the way its treated by Barclays. And our service can't award compensation for distress experienced by Barclay's customer's directors or employees personally.

However, I can make an award for any inconvenience W experienced as a result of Barclays' error, such as W's director's attention being diverted away from his regular business duties. So, to compensate W for that inconvenience I am minded to ask Barclays to pay W £200.

Reasons for closure

Mr T has said that he is aware that banks need no reason to close an account. Banks need reasons to close accounts but they do not have to share those reasons with customers and of course the reasons cannot be in breach of the law like the Equality Act 2010 for example.

Mr T is concerned that the account wouldn't have been closed had he not contacted Barclays. However, banks carry out reviews of accounts regularly in order to comply with their legal and regulatory obligations. It is likely that Barclays would have carried out a review once a payment of the size expected by W was paid into the account.

In summary I am satisfied that Barclays acted fairly when they closed W's account and the reasons for doing so were fair and in line with their legal and regulatory obligations.

For the reasons mentioned above I'm also satisfied on balance that Mr T was treated unfairly by Barclays when they asked questions as part of their KYC process. As the account is in the name of W and not Mr T and Mr T isn't the eligible complainant in this case, I can't award him compensation for his unfair treatment. In addition, I can't award W compensation for distress as W is not a natural person and as such can't suffer distress. I have awarded W compensation for the inconvenience caused for having its director diverted from his regular business duties.

Replies to my provisional decision

Barclays have accepted my provisional decision. They have said they didn't treat Mr T any differently to any other customer. And they were complying with their legal and regulatory obligations.

Mr T on behalf of W has made extensive comments. I would like to reassure him that I have thoroughly read and considered all his submissions. I may not comment on everything he has mentioned, I don't mean any disrespect in taking this approach. My outcome focuses on the relevant key issues, and on what I consider fair and reasonable in all the circumstances of the case. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything that Mr T on behalf of W and Barclays have said before reaching my final decision.

The crux of Mr T's main submissions are as follows:

- Mr T has argued that the decision made by Barclays to close W's account has had grave implications for the financial liability of the company. Mr T has said he has been badly affected by the account closure and he is homeless and without funds for basic day to day expenses like food. W has lost backers and funding and at the time of writing Mr T has said the company is awaiting strike out from Companies House as a result of defaults arising from the closure of the account.

- Mr T has also said that he doesn't think a finding of Barclays acting unfairly is sufficient and he would like an acknowledgement that there was racial bias in Barclays' behaviour.
- The value of the compensation doesn't encourage Barclays to change
- Mr T is unhappy that Barclays are unwilling to provide the recording of the conversation he had with the Barclays representative. Mr T believes the recording exists, but Barclays have refused to provide it.
- Barclays should disclose details of their internal review process
- The process followed by the Financial Ombudsman service is not comprehensive enough and plagued with inconsistencies.

Now both sides have had an opportunity to comment I can go ahead and issue my final decision.

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 relation to comments made by Barclays. I accept that Barclays have acknowledged my findings that they acted unfairly in their conversation with Mr T although I accept that Barclays have legal and regulatory obligations that entitle them to ask questions of their customers in relation to KYC and origin of funds.

In response to my provisional decision Mr T has highlighted a number of concerns which I'll now address below.

Financial losses

Mr T has mentioned that the closure of the account has had grave implications for W and for Mr T himself. In relation to any losses Mr T may have suffered as explained in my provisional decision we are unable to look at his personal losses as the company is the eligible complainant and the customer of Barclays in this case. So, although I empathise with Mr T's position, I am unable to consider any losses he has suffered.

In relation to losses of the company. Mr T hasn't provided this service with specific evidence of losses that can be directly attributed to the closure of the account with Barclays, and I am therefore not able to consider compensation for losses. Mr T is aware that in order to claim a financial loss this would need to be quantified and a direct causal link to the actions of Barclays. Mr T hasn't provided me with any evidence so I'm unable to award compensation.

Mr T has said the offer of £200 is insulting and he feels a six-figure sum is more in line with the loss of earnings for a person in his position. I appreciate Mr T has suffered financially as a result of this situation, and I am sorry he finds himself homeless and destitute. However, as I have explained the compensation of £200 isn't awarded to Mr T for his losses but for W for its losses. This is because Mr T wasn't able to carry on doing business on behalf of W. Instead, he was engaged in conversations with Barclays over its call and the questions they asked.

Call to Barclays

Mr T has said he doesn't believe that the call between Barclays' representative and himself isn't available. As Mr T is aware I have requested copies of the call. Barclays have said that the call wasn't recorded. I appreciate Mr T feels that this is suspicious, but I have seen no evidence of covert behaviour. In my provisional decision I was happy to accept that the call took place, and that Mr T was asked the questions he says he was asked. I have mentioned our service provides an informal resolution for disputes which is separate from the courts. A court can compel a witness to give evidence and provide for cross examination to test the evidence. Those options are not open to this service. Having said that I don't believe the existence or production of the recording would have any different impact on the outcome of his complaint. I say this because I have assumed the call took place and given the absence of other information from Barclays, the questions asked of Mr T were as Mr T has described.

Mr T has said the value of the compensation proposed doesn't encourage Barclays to refrain from acting unfairly towards other customers in the way it acted unfairly towards him. I understand what Mr T is saying. I appreciate Mr T would like me to award punitive damages against Barclays. Unfortunately, this isn't within the remit of what this service can award. As I've mentioned we are an informal dispute resolution service and as such we take into account the individual case. We are not here to punish the institutions. I have explained in my provisional decision that W isn't able to suffer distress as it isn't a natural person. I have however recognised that Mr T as an officer of the company was taken away from pursuing company business because of the actions of Barclays. So, although I appreciate Mr T is upset by Barclays' behaviour and would like them to be punished financially for it, this isn't something that I can do.

Mr T thinks Barclays should disclose details of their internal review. However, I disagree. This service isn't able to compel a business to disclose its internal processes. So, I can't agree with Mr T that Barclays should do this. Although I accept that a court may be able to compel a witness to disclose internal processes.

Mr T has said the finding of unfairness is not enough and he feels this service should make a finding of racial bias. He has said his claim is of racial discrimination and that is what it needs to be treated as. In my provisional decision I explained this service isn't able to make a finding that discrimination has taken place as a matter of law, only a court can do that. So, although I appreciate Mr T would like me to do so I cannot make a finding of discrimination. I did consider whether Barclays had acted unfairly, and I found that it had. If Mr T wishes for a finding of discrimination, then he may need to take his case to court.

Mr T has said the process this service has followed is not comprehensive enough and is plagued with inconsistencies. He has also referred to procedural errors. I appreciate for Mr T my provisional decision doesn't go far enough, however as I've explained the service provides an alternative to court and our remit and powers are different.

Mr T has said the decision is ambiguous and the guidelines are discretionary. I appreciate Mr T may be concerned about the way we have reached the decision in this case. Specifically, Mr T is concerned the investigator didn't raise any of the points I later raised in my provisional decision. Firstly, an ombudsman doesn't rubber stamp the work on an investigator but carries out their own review and can request further information and evidence. This is what happened in this case. As the deciding ombudsman I disagreed with the original view which is why I issued a provisional decision explaining my reasons. I explained the customer of the bank was W a company and as I have already mentioned the company couldn't suffer distress as it wasn't a natural person. The rules that govern how we operate are set out in the Financial Conduct Authority dispute resolution rules DISP, which can be accessed online. I have considered whether there were procedural errors in the way this case was investigated or in the provisional findings. I don't see that there has been.

Mr T has mentioned that recently in the media, a well-known person has received substantial compensation for having their account closed. Mr T thinks the reason he hasn't received substantial compensation is because of his race. Firstly, I cannot comment on another case. I can only look at the circumstances of this particular case and the evidence before me in order to determine the case in a fair and reasonable basis. Secondly as previously mentioned, the complainant in this case is W a company and not Mr T and it is only W that I can consider and not the distress and inconvenience caused to Mr T because of Barclays actions.

In summary I thank Mr T for his submissions which I have considered in full. I appreciate Mr T on behalf of W, will be disappointed by my final decision but having reviewed all the information received by both parties and their responses to my provisional decision I see no reason to depart from my original provisional findings. I remain of the view that this complaint should be partially upheld for the reasons set out in my provisional decision, which are repeated above and form part of this decision.

My final decision

For the reasons stated above I partially uphold this complaint. I require Barclays Bank UK Plc to pay W £200 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 8 November 2023.

Esperanza Fuentes
Ombudsman