

The complaint

W, a limited company, complains that Bank of Scotland plc (BOS) unfairly refused to remove a block from its account.

Mr R brings this complaint on W's behalf.

What happened

W holds a business current account with BOS. In July 2022, W informed BOS that it wanted to release between £150,000 and £200,000 from its account to help fund an upcoming programme of works.

W provided BOS with a signed CHAPS transfer form in September 2022. BOS didn't accept the form as it was only signed by one authorised signatory not two as required under the terms of the mandate. However, at the same time, BOS became aware of a dispute between some of the authorised signatories. Because of this, BOS restricted W's account.

W says that if BOS had looked at the register for W, it would have seen that some of the people it asked to sign no longer have anything to do with the management of W.

Mr R says that he told BOS that the signatories had already been removed from Companies House. Mr R is unhappy that after providing a letter from W's accountant, BOS changed the goalpost again and asked for written confirmation from the signatories that they consented to changing the mandate. Mr R says that W can't provide this information as the people concerned have long been removed from the official register for W and are not part of the management committee.

Our investigator recommended that W's complaint be upheld. She asked BOS to pay W £150 compensation for not making it clearer to W what steps it would have to take to unblock the account.

W disagreed with the investigation outcome. It said that because of the delay, the costs of a significant programme of works have increased by £300,000. So, W wanted BOS to compensate it by paying £300,000.

After considering everything, I issued a provisional decision on 24 November 2023 which said:

I realise that I've summarised this complaint in less detail than the parties and I've done so using my own words. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean I've not considered everything that the parties have given to me.

Initial delay

When W initially requested the CHAPS transfer, only one authorised signatory signed the request form. As W requested a transfer of more than £150,000 two signatories

were required to sign. I don't find that BOS acted unreasonably when it declined to make the transfer of funds. BOS agrees that W should not have had to chase the CHAPS transfer and for this it paid W £20 to apologise. I think this was fair.

Restriction of the account

Around the same time as W requested the money transfer, BOS became aware of a dispute between the account signatories and placed a block on W's account. I don't consider it was unreasonable of BOS to apply the restriction in line with the terms of W's account.

In its final response dated 6 October 2022, BOS told W that in order to have the block removed, W would need to confirm in writing that the dispute had been resolved providing all necessary signatories had signed.

After W said that it couldn't obtain signatures from all the current signatories on the mandate, BOS told W in late November 2022 that it should provide a letter from a certified solicitor or accountant confirming which parties should remain on the account. BOS said it would need to see a board resolution and completed mandate. Then BOS would require all the confirmed key account parties to confirm there wasn't any dispute preventing BOS from removing the block.

W provided the required documents in February and March 2023. But after reviewing things further, BOS told W at the end of March 2023 that the remaining three signatories would need to confirm in writing that the dispute had been resolved. BOS told W that if it couldn't contact the three signatories, it should seek legal advice.

BOS accepts that it should have made W aware that the decision to lift the block was at the discretion of the business manager. For some of the customer service failings, BOS has already paid W a total of £50.

I agree with our investigator that given the disruption and delay caused to W, additional compensation is warranted. However, I have also had some other thoughts about W's complaint which is why I have issued a provisional decision which gives both parties the chance to respond before making my final decision.

Continued restriction of the account

I first want to say that I don't consider BOS acted unreasonably when it blocked W's account given the dispute it was made aware of. I can also see that in an ideal world, all signatories to the account would confirm that the dispute had been resolved before removing the block.

W is a mutual society but it is also a limited company. So, when considering whether BOS has treated W fairly and in line with the terms of its account, I have looked at the terms and conditions which apply to BOS' business current accounts.

I think Clause 6 of BOS' terms and conditions is the relevant clause to consider as it sets out what should happen if there is a dispute between the directors. In this situation, BOS can require all directors to authorise transactions until they all agree how the account should be run. However, in W's case, the signatories disputing the use of the account, are no longer directors.

W's company documents filed on the Mutuels Public Register show that the three signatories who W wants to remove are no longer listed as directors. And the

minutes of a meeting of W held in November 2022, records the election of officers to the management committee stating that this “now closes any dispute”.

It might be a different case, if W was a partnership, LLP, or unincorporated association – as then, all authorised signatories would need to confirm there wasn't a dispute for BOS to lift the restriction.

I accept BOS may disagree with my interpretation but unless there is a compelling reason to maintain the restriction, I don't see why BOS cannot now agree to lift it in light of the information W has provided.

In terms of what compensation BOS should pay W – I am minded to require BOS to pay more than the investigator recommended but nothing like the amount that W seeks for the following reasons.

I think it was W's responsibility to monitor its account and notify BOS of any changes which may impact the way its account is run. In W's case, despite three of the authorised signatories no longer having anything to do with the business of W – their names remained on the mandate. So, I can't reasonably find that BOS was at fault when it took steps to protect W's account after being alerted to concerns by one of the authorised signatories.

I also think that given BOS' internal processes – it wasn't unreasonable to ask for all the signatories to confirm that the dispute had been resolved. However, once W told BOS that it couldn't obtain confirmation from all signatories, I think it was reasonable to expect BOS to look again at whether it could allow W access to the funds in its account. It is for this failure, that I am upholding W's complaint.

I appreciate W thinks BOS is responsible for the increased costs of a programme of works that it was undertaking but I don't consider it reasonable to require BOS to contribute to these costs. For a start, some of the problems getting access to the funds weren't due to delays or mistakes on the part of BOS. I also think that the issue with the signatories could have been avoided had W taken steps to amend the mandate once the relevant parties had left W. It's also hard to know how much the increase in costs was caused by external factors, unrelated to any delays on the part of BOS. Finally, I would expect to see evidence of W taking steps to mitigate its losses, such as securing alternative funding to have allowed the programme of works to proceed sooner.

I do consider that W has had to spend more time trying to access its funds than it otherwise should have. BOS also agrees that it should have been clearer about the steps needed to unblock W's account. For these failings, I consider an award of £750 is fair. This falls at the top end of an award we might make where the business failing has caused significant inconvenience. Our approach to awards like this can be found on our website. For the avoidance of doubt, my award includes the £150 which our investigator recommended that BOS pay. It does not however include any other compensation payments which BOS has already made to W in respect of this complaint.

To put things right, BOS should:

- Amend the mandate in line with W's instructions*
- Remove the restriction on W's bank account (if it has not already done so)*

- *Pay W £750 for the inconvenience caused.*

Further submissions

BOS said although Mr R seemed to be the driving force behind the request, he does not appear as a director on the Mutuals Public Register (the Register). So, BOS said that before it could remove the block, W should supply a completed mandate which at least mirrored the entries on the Register.

Mr R said it would not be practical to have all the directors listed on the mandate as only two or three were cheque signatories and one of them was no longer on the management committee. Mr R said that W urgently needed access to the funds in its account and suggested that as an alternative, BOS should transfer funds to the account W held with another bank - details of which were on the account W held with BOS. Mr R also asked that I tell BOS to close W's account.

I asked our investigator to go back to BOS to say that I thought it was an onerous requirement to have all directors named on the bank mandate when some are not current signatories to the account. Our investigator also asked BOS what the minimum number of signatories needs to be and whether if W provided a board resolution detailing the agreed signatories, BOS would then remove the block and amend the mandate.

After reviewing matters with its legal team, BOS said that if it receives a board resolution recording the change of mandate together with a matching mandate form, it will remove the block and amend the mandate.

BOS did point out that although there wasn't a minimum number of signatories - having as many active directors as possible registered on the account would lessen the chance of similar problems happening in the future.

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.

I am grateful for W's patience when trying to resolve its complaint. Given the concerns that BOS had about the operation of W's account after some of the signatories raised a dispute, I understand why BOS wants to make sure that W's board of directors – or management committee as they are known – agrees to the proposed changes to W's mandate.

It follows that I have included a provision in my directions below, which makes it clear that if W accepts my decision – BOS should amend the mandate and remove the restriction once it receives suitable documentation recording the changes to the mandate.

Although I have passed on BOS's advice about the number of signatories to the account, I haven't included directions on this aspect as it will be a business decision for W to make.

In terms of transferring funds and/or closing W's account – that would be for W to raise with BOS should it decide to do so once the block has been lifted.

As neither party raised an objection to my proposed award of compensation, I still think it fair to require BOS to pay W £750.

Putting things right

To put things right:

1. On receipt of evidence of a suitable board resolution recording the change of mandate, together with a matching mandate form, BOS should:
 - a. amend the mandate in line with W's instructions
 - b. remove the restriction on W's bank account (if it has not already done so)
2. Pay W £750 for the inconvenience caused

My final decision

My final decision is that I uphold this complaint. In full and final settlement, I direct Bank of Scotland plc to put things right in line with my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 7 March 2024.

Gemma Bowen
Ombudsman