

The complaint

A company, which I'll refer to as H, complains that Barclays Bank UK PLC wrongly advised that an account in H's name could be retained when H was due to be struck off the companies' register. As a result the account was closed and legal costs were incurred to reinstate H and reclaim the monies from the treasury.

Mrs F, who is a director of H, brings the complaint on H's behalf.

What happened

Mrs F's husband who was a former director of H, died in July 2022. I understand that he had retired due to ill health in 2017 and that the business hadn't been trading since then. Mrs F was in contact with H's accountants who were in the process of getting H struck off the register of companies. Mrs F was asked to close H's accounts, and she duly contacted Barclays in order to do this. From December 2022 until February 2023 Mrs F had several long conversations with an adviser at Barclays. In the course of those, as I understand it, it was established that there was an account (a clients premium account, CPA) with around £4,000 in it and which Mrs F believed to be monies in relation to a trust. I also understand that she was instructing solicitors who specialised in trusts.

The account had had no activity on it for some time and Mrs F wanted to make sure that Barclays would keep the account open. Mrs F consulted solicitors who advised that they would not receive the monies in the account but as I understand it told her to keep the account open. Barclays agreed that it would do this. Mrs F says that she told it that the strike-off was pending but she didn't get told to do anything about the monies in the account.

Mrs F received a cheque for £1,800. She asked Barclays what she should do about this and the adviser arranged for an account to be opened to receive the monies and subsequently closed. She was told at the time not to put the monies into the CPA, but queries why Barclays was able to give this advice yet kept the CPA open without advising her of the consequences of doing so.

I understand that H was dissolved by striking off on 4 April 2023. On the same day Mrs F paid a further £12,000 into the account, having been assured in a phone conversation in late March 2023 that there were no restrictions on her doing so.

After H was struck off the register, the entire £16,000 in the account was passed by Barclays to the treasury, and the account was closed down. Mrs F queried this and she was told that she would need to recover the monies. But she says that in order to do this she had to apply by court order to reinstate H. And she says this has cost over £7,500 in legal costs. She seeks to recoup those costs from Barclays on behalf of H.

I understand Barclays' position to be that no advice was given to Mrs F about keeping the account open. In the course of the telephone conversations it said that Mrs F had been receiving advice from solicitors and she was following that advice.

On referral to the Financial Ombudsman Service, our Investigator said that she did not think

that Barclays had made an error here. She said that Mrs F had been advised by accountants and solicitors and it was her responsibility to get appropriate advice.

Mrs F disagreed, and claimed further that Barclays should not have accepted the £12,000 credit into the account because H had been dissolved at that stage. She further complained that Barclays had caused difficulties when she attempted to raise a DSAR (Data Subject Access Request) to get copies of the telephone calls. After receiving the transcripts pursuant to the DSAR, Mrs F believed that there was a copy of a call missing.

The matter has been referred to me for an Ombudsman's consideration

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.

First of all, although I shall review the issue of the payment into the account, I think the issue with problems over the DSAR to be a separate one which would need to be raised with Barclays. As is another complaint Mrs D has that Barclays has been sending letters to the wrong address.

Mrs F is a director of H, and has been for a number of years. Whilst I appreciate that she had very little involvement in the business, she had a responsibility as a director to seek the appropriate advice. And I note that during the course of the telephone conversations that she had with Barclays, she made it clear that she was in contact with accountants and had instructed a solicitor with an expertise in trusts.

I have considered the recordings of the phone conversations and read the transcripts. Most of those were with one particular adviser. I think it will be helpful to set out here relevant parts of what the transcripts say:

On 20/1/23 the adviser said: *"..just so I'm 100% sure we've not missed anything, you're going to a new solicitor."* Mrs F said yes. The adviser went on to say: *"They're gonna sort you out with the client's premium account either telling you you can keep the funds you need [or] to get rid of the funds, [and] who the funds need to go to, where they need to go to and how."*

In the conversation on 7/2/23, Mrs F had not yet heard back from the solicitors. It was suggested to her that to stop the account closing for lack of information or activity on it that the forms be prepared giving the necessary information pending the solicitors' advice.

During the conversation on 10/2/23, the adviser sought help from another department. It was clear that Mrs F had the advice back from the solicitors as the adviser told that department that the solicitors *"aren't wanting to take the funds until the legal issues are basically sorted"*

Later in the phone call the adviser made it clear that the account was not blocked and that Mrs F would be able to access it at any time. Mrs F also said that she had appointed a new accountant.

Mrs F says that a call transcript is missing and that there was another call with the adviser on the 10 February 2023. I think it's likely that we have received all the transcripts and call recordings. I further don't think that it is likely that, if there had been another call, she would have been told anything different.

In the call on 13/2/23, the adviser started out by saying *"I've explained [to the other team]*

that it's important that we keep the account open until you get further instructions from your solicitor until you've got either somewhere to put the money or we know what's happening with that." And "They have said if you can try and sort something with the solicitor route, sort of sooner rather than later." And "basically, it's just based on what the solicitor would probably say. ..but the team should reach out to you."

There was another call to a different adviser, on 28/3/23. Mrs F was asking whether she could pay the £12,000 cheque into the account. She was told there were no restrictions on the account. By that time she was aware that the strike-off was imminent.

I find, from considering the telephone conversations, that Mrs F was concerned that the CPA with £4,000 in it was going to be closed for lack of activity. And she sought to keep the account open so that in my view she could get legal or accountancy advice as to what to do with the funds in the account which appeared to be trust funds. I don't find that Barclays offered advice about the status of the account. It is clear to me that Mrs F had told Barclays that she was instructing solicitors with experience of trusts and a new firm of accountants. The account was kept open by Barclays on her instructions and it appears to be that the position was left as at 13 February that Mrs F would be liaising with the solicitors and the accountants.

As I've said, as a director of the company it was Mrs F's responsibility to obtain proper advice. I appreciate that she didn't know that the funds in the account would be paid over to the treasury once H was dissolved. In my view it was very clearly for the solicitors to tell her what to do with the monies in the account, given that they appeared to be trust funds. But I don't think it was Barclays' responsibility to tell her that.

I appreciate that, after the striking off Mrs F spoke again to the adviser, who didn't believe that she would have much trouble with reclaiming the funds from the treasury. But I don't think that that adviser could have been expected to know that she would be incurring a very large amount of legal costs in doing so.

As regards the £1,800 cheque, I believe this was a tax refund. As Mrs F's instructions were that the CPA contained trust funds I can't fault the adviser for telling her to pay it into a different account. I don't see that this has any relevance to the funds in the CPA as Mrs F had told Barclays she was instructing solicitors and/ or accountants concerning this.

As regards the late payment in of £12,000, Mrs F was aware of the imminent strike-off and was told that there were no restrictions on her making a payment into the account. The account was not closed until 13 April 2023, the payment in being made on the 4 April. But again I can't see that she took any legal advice on the point and in my view it was not up to Barclays to give her that advice.

Finally I note Mrs F's assertion that she never received a response to her complaint. I can't see a final response letter on Barclays' file, and it should have responded to the complaint. However bearing in mind that the complaint is made by H, rather than Mrs F personally, I don't intend to require Barclays to take any further action in respect of that.

So overall I don't find that Barclays was responsible for the position that Mrs F found herself in when H was dissolved. I think it was clearly understood between the parties that she was asking Barclays to keep the account open. And I think it was further understood that this was the solicitors' advice, as they appeared to be unwilling to deal with the monies with themselves. I'm sorry that she appears to have incurred legal costs personally, but I don't find that Barclays should contribute to any of those costs.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask H to accept or reject my decision before 5 February 2025.

Ray Lawley
Ombudsman