

complaint

Mrs D complained because Barclays Bank PLC is pursuing her for debts on a joint account held with her husband. Mrs D and her husband are in the process of divorcing. Mrs D says that the account was only ever used by her husband, and she wants to be removed from the account, and from being pursued for the debt.

background

Mr and Mrs D had a joint current account which had been open for a number of years. In 2013 it had an overdraft which was significantly above the agreed limit, and the bank sent regular letters about the increasing debt.

Mrs D contacted the branch about the letters she'd received, and asked to be taken off the account, saying that she wasn't responsible for the debt. The branch asked her to phone the Collections and Recoveries department, but Mrs D didn't pass the phone identification checks. Mrs D's daughter, Ms D, contacted Barclays on her mother's behalf. Her letter to the bank in July said that her parents were divorcing, and that the court had issued a restraining order against her father, who had moved out of the home.

Barclays responded by asking Mrs D to phone. Ms D rang on her mother's behalf, but the bank wrote back to Mrs D to say there was no authority on record for her daughter to discuss the account. The bank said it was therefore closing the complaint.

Mrs D, represented by her daughter, contacted this service. Ms D explained the family circumstances, and also said that her mother had no credit or debit card and had never withdrawn any money from the account.

Following our involvement, Barclays accepted that it hadn't handled Mrs D's complaint well, and offered £100 compensation. The bank said no withdrawals or payments had been permitted from the account since it was notified of the marital problems in July, but said that it wasn't necessary to have a card to be able to withdraw money. So the bank continued to hold Mrs D jointly liable for the debt.

Our adjudicator considered the bank statements, and said that she wasn't able to conclude that Mrs D had had no benefit from the account.

Even if Mrs D had other accounts elsewhere, it didn't prove that Mrs D didn't and couldn't access this account. She said that Barclays had confirmed any repayment would be arranged in an affordable way, and that Mr D was jointly liable. The adjudicator found that Barclays' offer of £100 compensation for distress and inconvenience was fair and reasonable.

Ms D, on behalf of her mother, disagreed. She said her mother hadn't been able to withdraw money from the account. She said Mrs D had tried to contact Barclays on several occasions by visiting the branch, and the bank wasn't helpful. She thought Barclays shouldn't have increased the overdraft limit from £500 to £1,000, and her mother hadn't received notice of this.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I've looked first at the terms and conditions document for the account. This says that "*Each of you is separately responsible for complying with the terms of the agreement and you are separately and jointly liable for money owed to us. This means that we have the right to demand repayment of the full amount owed to us, and not just a share of it, from all or any of you.*" So the bank has the right to require Mrs D to pay the outstanding balance.

I can understand that Mrs D and her daughter would be anxious about the account, if they believe Mrs D didn't incur half, or much, of the debt. But as the terms and conditions show, someone who's party to a joint account isn't just responsible for their own spending towards that debt, but for all the spending on the debt. The bank isn't required to try and work out which of the transactions (which include some utility bills for the family home, for instance) benefited which joint holder.

Similarly, the fact that Mrs D didn't have a debit or credit card doesn't change the situation. The bank had Mrs D's signature so she could have taken money out. Ms D said that her mother didn't take money out, and I accept this, but it doesn't change the legal position about who's responsible on a joint account.

I've considered Ms D's view that Barclays shouldn't have increased the overdraft facility. I think there is some confusion between the overdraft limit, which stayed at £500, and a reserve limit of £1,000, which also stayed the same and didn't increase. In any case the debt was more than this, being around £1,900 when Barclays sent a Termination Notice in September 2013.

Barclays said it stopped withdrawals from the account as soon as it was notified of the marital problem in July, which I find was appropriate. Ms D is concerned that Mr D will continue to increase the debt, but this shouldn't happen with Barclays' restriction in place.

So I find that Barclays doesn't have to remove Mrs D's name and liability from the joint account. I note that Mr and Mrs D are in the process of divorcing, and I'd expect financial matters to be discussed during that process.

Looking at customer service, I agree with Ms D that Barclays wasn't helpful when Mrs D and her daughter contacted the bank for help. I find the bank could have done more, both in the branch and in replying to Ms D's letter, to ensure Mrs D's concerns were addressed. It didn't have to breach the rules about account confidentiality to do this – for example, it could have facilitated a call from the branch to Collections with both Mrs D and her daughter present. The guidance for compensation which we award is given on our website

http://www.financial-ombudsman.org.uk/publications/technical_notes/distress-and-inconvenience.htm.

Using this as a guide, I find that the £100 offered by Barclays is fair and reasonable for the distress and inconvenience caused by its failure to explore practical ways of communicating with Mrs D.

my final decision

My final decision is that Barclays has made a fair offer. I leave it to Mrs D to decide whether or not to accept Barclays' offer of £100 compensation.

Belinda Knight
ombudsman