

## The complaint

The Estate of Mrs S has complained that Barclays Bank UK PLC allowed payments to be made to a third party without her authorisation.

This complaint has been brought by Miss M, the granddaughter and appointed executor of Mrs S's estate. Mrs S's daughter, Mrs M, has represented the estate, and so I'll refer to her too in this decision.

## What happened

Both sides are familiar with the case, so I'll summarise things in brief.

Mrs S held three accounts with Barclays. Mrs M had authority over her mother's accounts via a Power of Attorney (POA), but that was removed on 20 June 2019 at Mrs S's request. One of Mrs S's accounts was a joint account with Miss M, which was closed on 10 July 2019 at the request of Mrs S.

A Third-Party Authority (TPA) for Mrs S's grandson, Mr F, was added to Mrs S's remaining two accounts on 10 July 2019. The TPA expired at the point Barclays was informed of Mrs S's death – 1 December 2020.

Between 7 August 2019 and 1 December 2020 – several payments (totalling circa £63,000) were transferred out of Mrs S's accounts to accounts held by Mr F.

Mrs S sadly passed away in November 2020. On reporting Mrs S's death in December 2020, Miss M became aware that one of her accounts had already been closed and that there was some '*concerning activity*' on the two remaining accounts – some of which had occurred whilst her grandmother was severely unwell and some after her grandmother's death.

Miss M also became aware of the TPA for Mr F and that he'd carried out several transactions on the accounts involving large sums of money. Miss M said the TPA had been put in place without the knowledge and consent of her grandmother's family – nor did she believe it had been done in line with her grandmother's wishes.

Miss M complained to Barclays in January 2021. Around the same time, Mrs M contacted Barclays by phone asking for account statements, as she too was concerned that there'd been some fraudulent activity on her late mother's account – which she said Barclays agreed to be the case. Mrs M said Barclays told her it would investigate her concerns and send the statements.

Barclays then wrote to Mrs M to explain that as her authority under the POA had been removed from Mrs S's accounts in 2019, and she wasn't an executor of her late mother's estate, she wasn't entitled to have the requested statements or to raise a dispute.

Once Miss M provided Barclays with the paperwork supporting her role as executor, it issued a response to her complaint and provided her with the last six years' bank statements.

Barclays said the TPA for Mr F had been added to Mrs S's sole accounts on 10 July 2019. It said this had been done at Mrs S's consent in accordance with her wishes. It said Mrs S was visited by bank staff at her care home, who were satisfied she had the necessary capacity to make the decision to have the TPA in place.

Barclays also explained to Miss M that a TPA allowed most activity to take place – aside from the closure of the account, up until the bank is notified of the account holders death (in this case 1 December 2020).

Unhappy with Barclays' response, the complaint was referred to the Financial Ombudsman. Mrs M said Barclays had allowed the TPA to be set up whilst a POA was in place. And that her mother was Italian, and an interpreter should've been present when the TPA was applied for.

Mrs M added that Mr F had closed the joint account held with Mrs S and Miss M – which she said he wasn't entitled to do. And he'd made large transfers out of the sole accounts which Barclays didn't flag as suspicious.

Our Investigator looked into things and didn't uphold the complaint. She said it was not possible to know the true intentions and wishes of Mrs S – but she was satisfied that Barclays had processed the TPA correctly, and that the transactions Mrs M was concerned about had been authorised by a permitted party.

Our Investigator also noted that Barclays had flagged a payment from one of Mrs S's accounts into Mr F's account, but after checks were carried out, the payment was released.

Mrs M didn't agree and asked for an Ombudsman to issue a final decision. She maintained Mr F didn't have the appropriate authority at the point the large payments were made from her late mother's accounts. She said she was pursuing a case against Mr F and needed more information from Barclays to allow her to do that. She also wanted to understand how Mr F had been able to make online transfers and why Barclays hadn't queried payments made around the time of Mrs S's death.

### **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've reached the same outcome as our Investigator – and for largely the same reasons. I realise this will be very disappointing for Miss M and Mrs M and I'd like to assure them I haven't taken this decision lightly. I appreciate this has been a difficult time for them both, and their wider family. And I'd like to offer my condolences for the loss of Mrs S.

In reaching my decision, I've very carefully considered all the evidence provided and if I don't mention a particular point, it's not because I haven't considered it, but I've focussed instead on what I believe to be important to the outcome of this complaint.

Mrs S is sadly no longer around to ask what her specific intentions were in having the authority under the POA removed and the TPA for Mr F added to her accounts. And so, I must look objectively at the available evidence to decide if Barclays acted reasonably in registering the TPA allowing Mr F to access and make payments from Mrs S's accounts.

I should explain that the circumstances surrounding the activity and closure of the joint account, held between Mrs S and Miss M, has been dealt with under a separate complaint. And so, whilst I've included information about the joint account in this decision by way of

background and context, my focus is on the two sole accounts held by Mrs S, to which the TPA was added.

I've looked at the circumstances surrounding the application for the TPA. I've also seen Barclays' notes from the time the TPA was applied for, the application itself and a testimony from a Barclays' staff member who spoke to Mrs S at her care home about the application. And I've seen Mrs S's written request to have Mrs M's authority under the POA removed from her accounts.

The first point to make is that the TPA was applied for *after* Mrs M's authority over Mrs S's accounts, by way of the POA, had been removed. Mrs S made the request for authority to be removed on 19 June 2019, and this was confirmed by Barclays in writing to Mrs S on 20 June 2019.

I can see the TPA application form was completed manually on 10 July 2019 and signed by Mrs S and Mr F. Mrs S consented to Mr F being a TPA and confirmed that she had the mental capacity to manage her financial affairs. The application also confirmed that the TPA related to both Mrs S's sole accounts and would remain in place until either cancelled by her, or upon her death.

Barclays' notes confirm the application process as outlined above and make no reference to any concerns of a language barrier or need for an interpreter. The notes also show that Mrs S was visited at her care home to complete the application process. Whilst the member of staff who visited Mrs S had limited recollection of the meeting, given the passing of time, the following was noted:

***'... I would not sign somebody as a third party unless the customer was asking me to do so and I would talk with the customer alone to make sure there was no coercion'.***

The member of staff also said that a TPA would've only been agreed to if they were satisfied about mental capacity – otherwise they would've suggested to Mrs S that a POA over the accounts be put back in place.

Whilst we don't know exactly what motivated Mrs S to apply for the TPA, and the passing of time has meant records and recollections are vague. based on the information we do have; I can't say Barclays didn't follow due process or the wishes of Mrs S in registering the TPA for Mr F.

Mrs M is concerned about the payments made by Mr F from the two sole accounts. Payments were made between August 2019 and December 2020 – whilst the TPA was in place. And so, Mr F was authorised to make those payments. As our Investigator has confirmed to Mrs M, the TPA process allowed for those payments to be made via online banking.

I agree with Mrs M that the payments are large – and could be deemed out of character for Mrs S's account. I can see that Barclays did flag a payment made on 18 June 2020 for £5,000 from Mrs S's account to an account held by Mr F. But the payment was then processed the following day with no risk identified.

Mrs M has questioned why Barclays didn't flag other payments – particularly those around the time of her late mother's death, as suspicious. We don't know specifically what fraud detectors a bank uses – but in terms of the specifics of this case, I can understand why payments made by a person who had an active TPA on an account to an account in their own name was unlikely to be seen as suspicious by Barclays. Furthermore, I've noted the following from the TPA application which Mrs S agreed to:

***'I ... agree that instructions may be given to [Barclays] in accordance with the above [TPA]. I ... also acknowledge and agree that amongst other things:***

***... [Barclays] is under no duty to make enquiries before acting on any instructions you receive from the [TPA].'***

Taking all this into account, Barclays would've had no obvious reason to question a payment made by Mr F whilst the TPA was in place. And when it did intervene in the £5,000, it was satisfied this was legitimate – which suggests any further interactions in relation to other payments would've likely resulted in the same outcome.

I know this is a very upsetting situation for Mrs M and how strongly she feels about this matter, and so this is a difficult message for me to give. But given the evidence I have and on the balance of probabilities, I'm unable to reasonably reach any other conclusion than Barclays hasn't done anything wrong.

So, I'm not going to tell Barclays to do anything further to resolve this complaint.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs S to accept or reject my decision **before 18 October 2023**.

Anna Jackson  
**Ombudsman**