

The complaint

K, a limited company, complains Barclays Bank Plc unfairly blocked, closed and then removed funds from its account.

What happened

I summarised the background to K's complaint in my provisional decision. But for the purposes of issuing this final decision I now repeat those facts here.

K held a business account with Barclays. In July 2021 Barclays reviewed K's account, during which time the account was blocked. This followed the receipt of fraud reports related to payments which credited the account.

Barclays concluded their review and decided to close the account immediately. They returned part of the balance they removed back to source.

K says the payments in question were from genuine cryptocurrency trades. K's director, Mr O, traded cryptocurrency on a third-party platform using its peer-to-peer function. This meant the buyer of the cryptocurrency would make a payment directly to K's account, and on receipt of the funds Mr O would transfer the cryptocurrency to the buyer. He provided evidence of his trades and says he informed Barclays about the changes to the activity that would take place on K's account in May 2021.

K's complaint was initially upheld by our investigator. Barclays disagreed with the outcome and asked for a final decision from an ombudsman, so the complaint was passed to me to decide. I made a provisional decision on the complaint earlier this month. My findings were:

"Block and account closure

Barclays have important legal and regulatory obligations they must meet when providing accounts to customers. Those obligations are ongoing and don't only apply when an account is opened. They can broadly be summarized as a responsibility to know their customer, verify their sources of income, and where possible to detect and prevent harm, including harm experienced by third parties.

Barclays will review accounts to comply with its responsibilities. And it's common industry practice for firms to restrict access to funds to conduct a review - doing so helps prevent potential losses that might otherwise result. I appreciate Mr O's sentiment, but I disagree that Barclays needed to speak to him before blocking the account. This could have afforded him the opportunity to move funds away from the account which were the subject of Barclays concerns. So, I'm satisfied the increased activity on K's account and receipt of third-party reports of fraud was sufficient to block the account, even if this prevented K carrying out

business, causing it loss and/or reputational damage.

Barclays don't need tell Mr O the full detail behind their review and their considerations. There are often good reasons for this, and I'm satisfied there are here too. I appreciate Mr O's frustration, but I don't require Barclays to give him any more information than they already have. I appreciate Mr O believes he was discriminated against, so that K was impacted by this, but I'm satisfied Barclays' block and review did not relate to any protected characteristic belonging to him.

Barclays can close customer accounts. They have a broad commercial discretion and were able to close K's account. But I'm not satisfied they fairly applied their terms which relate to the immediate closure of an account. I don't find the relevant facts show any of the express circumstances were met to do this. Instead, they should have given K two months' notice to close the account.

Mr O lost faith in the UK banking system due to Barclay's actions, so he decided not to open another business account for K. As a result, I'm not persuaded K experienced inconvenience due to the immediate closure or failure to return the remaining funds promptly (minus the funds which were returned to source) – it's business simply stopped as a result of Mr O's decision. So, I'm not awarding K compensation. Neither am I awarding losses to K due to how Mr O felt or the losses he experienced as a result of Barclays actions – he is not the eligible complainant under DISP for this complaint.

The return of funds

Generally, the law respects freedom of contract for businesses to enter into agreements with one another and to be bound by them. Businesses like K cannot benefit from consumer protection, such as the Consumer Rights Act 2015 – there is no general fairness test applicable to all the terms that formed its contract with Barclays.

K agreed to Barclays' standard terms in return for the account. So, in principle K is bound by those terms. K wasn't compelled to contract with Barclays, and it presumably had a choice of accounts within the market.

So, my focus is whether Barclays had mandate under their agreement with K to remove funds from K's account. The business terms and conditions contain the following term:

“When we can take money out of your account and when we can refuse to accept payments into your account

Rarely, a payment comes into your account, but the paying bank realises it was made fraudulently. Or it may be that the person paying it doesn't have enough money. If this happens, we can take the money back out of your account.”

I find this term unambiguous, and it would cover a circumstance where a payer made payments as a result of a fraud even if the payee received the payments in good faith.

On reviewing the information Barclays received about the payments in question, I'm satisfied they resulted from fraud. Mr O may want more detail than this, but I'm treating the information I've available in confidence, which is a power afforded to me under the Dispute Resolution rules (DISP) that govern our service.

The above doesn't mean I think K received the payments dishonestly. Instead, Mr O has

shown reasonable evidence of trading cryptocurrency in exchange for the payments and that the payments were sent to K's account for this purpose.

However, Barclays' term to remove the funds doesn't require K to have acted in bad faith. And in the circumstances of this individual complaint, I'm satisfied they could remove the funds from K's account, even though this caused K a loss. So, I don't currently require Barclays to pay K the sum they removed from its account and didn't return to it."

K responded to my complaint and disagreed with the outcome. In summary it said:

- It would be unjust for K to bear the loss of Barclays returning the funds.
- Barclays' advisor informed Mr O that cryptocurrency trading was permissible in May 2021, so it was unfair for them to seize funds resulting from trades.
- Barclays heavily influenced Mr O's decision not to continue K as a business due to the account closure, so K did experience inconvenience which warrants compensation.
- K didn't act in bad faith when receiving the funds, so Barclays ought to refund them.
- Barclays should collaborate with the partner bank to identify and apprehend the individual responsible for the fraud.

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've decided not to award K compensation for the same reasons I gave in my provisional decision. My provisional findings are copied above and now form my findings for this final decision. I'll now address the points K made in response to my provisional decision.

K as a business freely entered into an agreement with Barclays. That agreement contained a clear term that allowed Barclays to take the action they did – the term did not require K to have acted in bad faith. Based on the information I've seen; I'm satisfied Barclays fairly concluded the payments in question resulted from fraud. I appreciate K is unlikely to have been a witting participant in the fraud or had knowledge of the wider circumstances at play, but I don't find this meant Barclays couldn't take the action they did.

Mr O says he informed Barclays that K's account would be used for cryptocurrency trading and was told this was permissible. But I don't find this meant Barclays shouldn't have blocked the account on receipt of fraud reports regarding payments resulting from cryptocurrency trading. They understandably would want to review what was happening on the account and take pre-emptive action until the review completed.

I'm not satisfied Barclays should pay compensation to K for inconvenience. Barclays ought to have given 60 days' notice, but they were entitled to close the account and I'm not finding fault with that decision. Mr O may have been affected by the closure to the extent that he stopped running K as a business, but that was his choice, and I'm not holding Barclays responsible for the effect of his decision.

Mr O says Barclays should try to identify and apprehend the individual responsible for the fraud in question. But considering the circumstances of the complaint and the nature of the fraud reports they received, I don't require Barclays to do anything further.

My final decision

My final decision is not to award compensation to K for the reasons I have given above.

Under the rules of the Financial Ombudsman Service, I'm required to ask K to accept or reject my decision before 21 August 2023.

Liam King
Ombudsman