

The complaint

B, a limited company, complains that Barclays Bank UK PLC mistakenly credited a bank account held by a third party.

B wants Barclays to refund the money that it paid to the third party's account.

What happened

B held a business bank account with Barclays that was closed in 2003. In 2006 Barclays reallocated the account number and sort code to a different customer (the third party).

During 2018 and 2019, HMRC used the reallocated account details to transfer four sums of money intended for B totalling almost £17,900. When B discovered what had happened a few years later, it asked Barclays to refund the payments.

B thinks that if Barclays is going to reallocate old bank account numbers, it should have adequate protections in place to prevent the new account holder from receiving money intended for the previous account holder.

Barclays contacted the third party who was unable to immediately return the entire amount paid by HMRC. The third party offered a repayment plan which Barclays passed on to B with the suggestion that if B was unhappy with the offer, it should take legal advice.

B was very unhappy with Barclays' response. It thought Barclays should refund the money to B and then pursue the third party for repayment.

Our investigator originally thought that this service didn't have jurisdiction to consider B's complaint. Another ombudsman considered this question further and provisionally decided that B's complaint was one that the Financial Ombudsman Service could consider. As both Barclays and B accepted the ombudsman's provisional decision, the investigator went on to consider the merits of the complaint.

After considering the merits, the investigator didn't recommend that B's complaint be upheld. In summary she didn't think there had been a failure in Barclays' customer service. She said that Barclays could not have known the payments were intended for B, as systems such as Confirmation of Payee (CoP) weren't used by HMRC at the time. So, the payments were sent using the sort code and account number and not the name of the intended recipient.

Our investigator explained that the Financial Conduct Authority doesn't prohibit the recycling of account numbers. She thought three years between closing B's account and allocating the account number to the third party was a reasonable time frame.

Finally, our investigator said it would be for B and not Barclays to pursue repayment of the money – either from HMRC or the third party.

B is very unhappy with the investigation outcome. It says Barclays' systems are not fit for purpose. It thinks Barclays should have taken extra care because after B closed its account in 2003, B opened a new one with Barclays in 2005. So, Barclays should have done more to

prevent possible problems that can arise because of the recycling of an old account.

B thinks that because of the nature of the third party's account, the HMRC payments should have rung alarm bells. B thinks Barclays failed to respond within deadlines set and doesn't think it was a complex case involving numerous parties.

B says it will contact the ICO about Barclays' data protection breaches and thinks that Barclays should have reported the third party to the relevant authorities.

Finally, B is unhappy with the investigator's choice of wording in her closing comments.

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, I'm aware I've set out the background to this complaint in less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. It's just that I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

B's bank account was closed many years ago and Barclays then recycled the account number and sort code. We are not the regulator of Barclays so I don't comment on the practice of recycling account numbers other than to say Barclays, like other banks, was not prevented from reusing old account numbers. I do however note that Barclays waited three years before reallocating the account number which should've given B plenty of time to notify parties about the change of bank account details.

At the time that the payments were made in 2018 and 2019 CoP hadn't been launched. Even if it had been in place, Bacs payments – such as those made by HMRC – weren't included. This means that Barclays used the sort code and account number to route the payments in accordance with the instructions given to it by HMRC. So, I can't fairly find that Barclays made a mistake with the payments.

I appreciate B thinks that the nature of the payments and the fact they were made to a personal account with no history of dealings with HMRC, should have raised alarm bells but I don't consider Barclays was at fault. Although Barclays has systems in place to check for fraudulent activity, I wouldn't have expected the payments from HMRC - a non-ministerial government department based in the UK - to trigger these kinds of checks. So, I don't see how Barclays would have known that the payments weren't intended for the third party – particularly as neither the third party or B appear to have questioned them at the time.

Once Barclays was made aware of the problem later in 2021, it contacted the third party to try and recover the money. And Barclays forwarded the third party's repayment proposals to B. So, I'm satisfied that Barclays tried to help B recover the payments.

As I don't find Barclays made a mistake with the payments, I can't reasonably require it to refund the money to B. It would be for B to either try and reach some kind of repayment agreement with the third party or consider taking legal action to try and recover the money from the third party.

I know that B thinks Barclays should involve the police but as far as I can see, the third party hasn't refused to return the money. They have simply said they don't have cleared funds to pay everything in one go. In the circumstances, I don't consider Barclays is wrong not to involve the police. It would be for either B or possibly HMRC as the party making the payments, to report the matter to the police if they choose.

Finally, Barclays accepts that there were some delays in the complaints process but complaint handling in itself is not a regulated activity which our service can usually consider complaints about. That being said, I note that even though Barclays took over three months to send a formal final response, it had already set out its position to B by email in early February 2022 and continued to engage with B by email and letter during the following months. So, I'm not persuaded that there's been a failure in customer service which warrants an award of compensation to B.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 19 October 2023.

Gemma Bowen
Ombudsman