

## **The complaint**

A limited company, which I'll refer to as S, complains that Barclays Bank UK PLC allowed its bank account to operate without a mandate. This led to Barclays declining to give S a repayment holiday for its Bounce Back Loan ("BBL"). S also says it led to Barclays failing to respond favourably to a status enquiry, leading to S not winning prospective new business.

S's director, who I'll refer to as Mr B, also complains on behalf of S, that Barclays breached data protection laws by sending letters regarding S to his home address.

## **What happened**

S opened a business current account with Barclays in April 2020.

In September 2020, S took out a BBL for £12,500. Under the terms of the BBL agreement, no repayments were due for the first 12 months.

S told us:

- In late 2020, a prospective client of S asked the bank for what is known as a "status enquiry", a form of limited reference or "letter of comfort" where a bank is asked about a customer's credit standing. Barclays didn't reply and S didn't get the business.
- The BBL includes various "Pay As You Grow" ("PAYG") options to reduce or suspend repayments for a period. In June 2021, S attempted to put in place a six month PAYG repayment holiday for its BBL. The online system wouldn't accept it because it said S had a "complex mandate".
- In June 2021, S emailed the bank to ask for the PAYG holiday. Barclays didn't respond and didn't put the PAYG holiday in place.
- S had written, telephoned or emailed the bank at least 10 times asking for a copy of its mandate and BBL agreement, but had yet to receive a response.

Barclays said:

- When S had opened its account, they had written to S asking it to complete and return a mandate. It hadn't done so.
- They couldn't trace any phone calls or emails asking for the PAYG repayment holiday. If Mr B had contacted them, they would have directed him to call the mandate team to sort out that issue first. S could then have accessed the PAYG options.
- They had responded to two status enquiry requests in 2020, but were only able to confirm that S held a bank account.

- S hadn't made any of the repayments due to its BBL. They had therefore followed their usual process in sending letters regarding the arrears, followed by a formal demand.

One of our investigators looked into S's complaint, but didn't consider Barclays had done anything wrong. Mr B disagreed and asked for an ombudsman to look at the matter again. He made the following points, in summary:

- S contested that Barclays had ever sent it a mandate form.
- He had told Barclays on the phone that the mandate error message was preventing S from taking advantage of the PAYG options. They could have sent him a new mandate to resolve this but they hadn't done so.
- Barclays shouldn't have allowed any activity on S's account in the absence of a mandate.
- The bank hadn't provided evidence of the delivery of any documents. The burden of proof rested with Barclays.
- Our investigator had said that S had taken a risk by emailing a Barclays' "direct team" mailbox in June 2021. But Barclays themselves had given him that email address in a telephone call that he had recorded (but no longer had a copy of). S had been told this was the correct email address to resolve S's problem with the PAYG repayment holiday.
- Our investigator had ignored the fact that S had been instructed to manage its BBL through the online portal, which was impossible to use without a mandate. Why a mandate should dictate the repayment of a BBL was unclear.
- If sufficient access to the online BBL portal had been provided, S could have suspended loan repayments for six months, thus avoiding default. S had been deprived of this opportunity through Barclays' negligence.

When I started looking into the complaint, I asked Barclays for phone call recordings and they were able to find a number of them. Having listened to them, I thought one call, from 3 June 2021, was particularly relevant. So I shared it with Mr B and let him know my provisional thoughts on it. I said to him, in summary:

- During the relevant call, the bank's employee explained that there's no mandate on the account and that's why S was getting an error message when Mr B tried to apply for a repayment holiday.
- The bank offered to put Mr B through to the mandate team to get a mandate in place and checked that there was plenty of time to sort it out before the deadline to put the repayment holiday in place.
- Mr B declined to be put through to the mandate team and said he wanted to seek legal advice about whether S was liable for the BBL if there was no mandate.
- I didn't consider that the mandate (or lack of it) was what should fairly decide liability for the BBL.
- I thought the bank explained the position clearly and informed him correctly of what needed to be done to put a mandate in place in time to apply for a repayment

holiday.

- It was Mr B's decision not to proceed with the mandate and I didn't think that this was the result of any error on the part of the bank.
- In the light of the phone call, I didn't think the "direct team" email made any difference.
- I was minded to agree with our investigator's findings regarding the "letter of comfort". I also thought that if Mr B believed data protection laws had been broken, that was a matter for the Information Commissioner's Office not the Financial Ombudsman.

Mr B has not responded by the deadline I gave so I am now issuing a final decision.

### **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, and in the absence of any new evidence or arguments, I haven't been persuaded to deviate from my provisional findings summarised above. So I'm not upholding this complaint.

The bank has provided what I consider to be satisfactory evidence that a mandate form was sent to Mr B when S's account was first opened. So I don't think there was a bank error at that point. And whilst I accept that the error message Mr B encountered when trying to apply for PAYG on behalf of S could have been more helpful, I think the advice he was given on the phone was very clear.

Mr B has queried why Barclays has made applying for the PAYG options for a BBL dependent on having a correct mandate in place. I think this is a commercial decision for Barclays, with which I wouldn't interfere. I can see that it seems inconsistent with the fact that existing customers could apply for BBLs in the first place without any mandate checks. But the latter is explained by the fact the scheme was designed for speed and was therefore highly automated, with minimal checks that might have delayed getting the money to where it was needed.

In any case, in the circumstances here, I don't think the fact that PAYG was unavailable without a mandate prevented S from accessing the PAYG options. I say this because during the phone call, he was told what steps were needed to put a mandate in place, in plenty of time before the deadline for applying for PAYG. And he was told that once that mandate was in place, he could use the online portal, which was the correct method for applying for PAYG.

Mr B chose not to be put through to the mandate team. I think it's clear that this was his choice. The result was that a mandate wasn't put in place and he was therefore unable to apply for PAYG for S's BBL online. I think it's apparent that Mr B was fully aware that this would be the consequence, but chose instead to take no action and to argue that S couldn't be liable for the BBL at all if there was no mandate in place.

Mr B emailed the bank to a "direct team" email address requesting a repayment holiday on S's BBL and unfortunately, the bank didn't respond to his email. He argues that it's therefore the bank's fault that S never got to take advantage of the PAYG options. He also says that it was the bank that told him to email this address on a phone call.

I haven't heard any mention of Mr B being given the "direct team" email address on any of the call recordings I've been sent. That doesn't mean it never happened, although the bank says that this email address is not the usual route to contact them and they wouldn't have advised him to use it. But I don't think this email makes any difference. I say this because it happened some weeks after the 3 June phone call, during which Mr B was told why he couldn't apply for PAYG using the online portal and what he needed to do to sort that out.

Mr B has denied ever being sent a mandate form, or a copy of the BBL agreement, and argued that the burden of proof rests with Barclays. But we don't operate in the same way as a court. It's up to me to consider all the evidence to decide what's fair and reasonable in the circumstances. If necessary, this means I decide cases on the basis of the balance of probabilities, that is, what I think is more likely than not to have happened.

Barclays' records show that it has the correct address for S on record and that it sent the mandate pack as part of the Welcome Letter when the current account was opened. I can also see a record of it sending the BBL agreement at least twice. My conclusion is therefore that it's more likely than not that these documents were sent. That's not to say that all correspondence definitely arrived. But this service wouldn't hold the bank responsible for the non-receipt of correctly addressed mail.

For the avoidance of doubt, I don't consider that the mandate is what defines liability for the BBL here. There's no suggestion that any fraud has occurred. Mr B is the director of S and is therefore entitled to enter into contracts on behalf of S.

Neither have I seen any suggestion that the bank is holding Mr B personally liable for S's BBL, which seems to be one of his concerns, partly because they sent one piece of correspondence to his home address. I know that the bank referred to him as being "responsible" for S's accounts in their letter following his complaint about the use of his personal address. But I haven't seen any evidence that they are holding him personally liable. All the letters about loan arrears, including the formal demand, were correctly addressed to S. I think it's fair to say that Barclays meant that, as the sole director of S on Companies House, Mr B was the correct person for correspondence about S.

In summary, I think the crucial thing here is that when Mr B phoned the bank, he was given correct information. The bank also offered to put him through to the mandate team. This was in ample time to resolve the problem in time to apply for PAYG. I don't think it would be fair to hold Barclays responsible for the fact that Mr B chose not to act on that information.

## **Status Enquiry**

The terms and conditions governing the contract between S and Barclays are set out in the Business Customer Agreement and the BBL agreement. I can't see anywhere in either of those documents where it says Barclays are obliged to deal with status enquiry requests for their customers. So I don't think this was something Barclays had to do. That said, it is common practice for banks to respond to such requests, so I've looked at what Barclays say on their website about how they handle them.

Barclays' website says that "Request(s) will only be granted for accounts that have at least six months' worth of credit turnover". S's bank account was opened in April 2020 but wasn't active. Barclays says that, because the account was new, they were only able to confirm that S had a bank account at the point the requests were made. This is in line with what their website says and I think it is a reasonable approach.

My conclusion is therefore that Barclays didn't make an error in the way they responded, particularly as they weren't obliged to respond at all. Neither do I think that this issue has anything to do with the missing mandate. I'm sorry to hear that the absence of a full status enquiry damaged S's trade, but I don't think that was Barclays' fault.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 14 February 2024.

Louise Bardell  
**Ombudsman**