

## **The complaint**

Mr and Mrs R, as trustees of Trust R, are complaining that National Westminster Bank Plc (NatWest) delayed opening the trust account.

## **What happened**

On 8 January 2020 Mr and Mrs R met with their relationship manager at NatWest to open two trust accounts. This complaint is only dealing with Trust R. Mr and Mrs R said they wanted to open the trust account to deposit £325,000 into and that Mr R will manage the investments within the account. Mr and Mrs R completed the necessary paperwork and were told the account was open.

Later, Mr and Mrs R received account numbers and debit cards for personal accounts. When they queried this, they were told that the trust accounts hadn't been set up correctly. It took a number of emails and online chats to understand what had happened. NatWest opened this trust account (for Trust R) on 30 January 2020. The second trust account was opened in March 2020. NatWest wasn't able to confirm that the account for Trust R had been opened correctly, with the correct online access, until 4 May 2020. Mr and Mrs R then didn't fund the trust account until September 2020 and invested the £325,000 gradually over the coming months.

NatWest acknowledged that it had made an error, and that Mr and Mrs R had experienced delays. It offered Mr and Mrs R £250 compensation for this issue. Mr and Mrs R said that NatWest hadn't considered any loss associated with not being able to invest the money in the trust account. NatWest explained that the money could've been invested outside of the trust and so there hasn't been a loss.

Our Investigator recommended this complaint be upheld. She said that the trust account should've been opened on 8 January 2020 – when the personal accounts were opened in error. So, she felt that there could've been a loss of investment growth as it was reasonable for Mr and Mrs R to wait until the funds were inside the trust before investing.

The Investigator did note that the account wasn't actually funded until September 2020 but she said this was a choice that Mr and Mrs R had taken in reaction to the markets during the pandemic. So, she recommended NatWest pay Mr and Mrs R the difference in value of the £325,000 from 8 January 2020 when it could've been invested, to 4 May 2020 when it was confirmed the account was open and operating correctly. The Investigator recommended NatWest use the MSCI WMA Private Investor Global Growth Index as a benchmark as it was clear from Mr R's evidence that his investments were in line with this index. The Investigator also recommended NatWest pays Mr and Mrs R £350 for the trouble and upset this has caused them.

NatWest made no additional comments but showed that there was no financial loss when calculating the redress. Mr and Mrs R felt that the dates for investment comparison should be changed. He explained that he wouldn't have invested until April 2020 and felt the financial loss calculation should start from then. He provided evidence to show that he hadn't

changed any of his existing investment portfolios during that time until capital additions in April and said he'd have done the same with the Trust's investments.

As no agreement has been reached, the complaint has come to me to reach a 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.

It's not disputed that NatWest made an error in setting up this trust account. It's clear that the account should've been set up on 8 January 2020. So, this decision is focused on how to put things right.

#### *Trouble and upset*

I've reviewed the correspondence between Mr and Mrs R and NatWest about the setting up of these accounts. It's clear that Mr and Mrs R wanted a specific account, wanted to deposit £325,000 in it to invest and wanted online access to it. It wasn't clear that all this had happened until 4 May 2020. So, there was a delay experienced, as well as a series of miscommunication that took up time and caused frustration.

I agree with our investigator that NatWest should pay Mr and Mrs R £350 for the trouble and upset caused by the error. The accounts were opened face to face as Mr and Mrs R said they wanted avoid any difficulties like these and it's clear the errors, and confusion in communication has caused frustration.

#### *Investment loss*

Mr and Mrs R had £325,000 to deposit into the trust account and the intention was for this to be invested and managed by Mr R. Mr R has shown us his personal portfolios and I'm satisfied he'd invest in assets which reflected the MSCI WMA Private Investor Global Growth Index. This is broadly agreed by all parties. What isn't agreed is the date on which Mr and Mrs R would've started to invest these funds.

It's clear that had the accounts been opened correctly, the funds could've been deposited ready to invest from 8 January 2020. Mr R has said that he wouldn't have invested that money until 8 April 2020. He has told us that the trust account would've reflected his own investments and he's told us that he hadn't made any changes to his investments between January and April 2020. Mr R specifically referenced that he knew using the start date of 8 January wouldn't show any financial loss because of the decline in stock market prices that began in February 2020.

I've thought carefully about what I think would've happened had the accounts been opened correctly. It's clear that we can't be sure what would have happened, but I need to consider whether I think it's likely that Mr and Mrs R wouldn't have invested that money inside the trust account until April 2020. But I'm not persuaded that's the case.

I do acknowledge that Mr R didn't change his existing portfolios between January and April 2020, but his portfolios contained investments. In this case, the £325,000 would've been sat as cash. And when the accounts should've been opened, the decline in the stock market hadn't yet happened. Things weren't clear in terms of the impact of the pandemic in early January 2020 and the markets didn't reflect the impact for some weeks after this point. Taking this into account, and the lack of activity in Mr R's own portfolio I don't think, on balance, that Mr and Mrs R would've done anything but invest the money if the account had

opened on 8 January 2020. Particularly given their intention to invest the £325,000 when applying for the account. I think the actions Mr R is now saying he'd take are with the benefit of hindsight. So, I think it's fair, when considering redress, to use the start date of 8 January 2020 as I think it's likely Mr R would've started to invest the money at this point.

### Putting things right

In assessing what would be fair compensation, I consider that my aim should be to put the trust as close to the position it would probably now be in if NatWest hadn't caused delays.

It is not possible to say *precisely* what the trustees would have done had the trust accounts been opened without delay. But I am satisfied that what I have set out below is fair and reasonable given the trust's circumstances and objectives when the trustees invested.

### What must NatWest do?

To compensate the trust fairly, NatWest must:

- Compare the performance of the trust's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.
- NatWest should also pay interest as set out below.
- Pay to the trust £350 for the inconvenience caused by the delays and errors.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Trust R	Still exists and liquid	MSCI WMA Private Investor Global Growth Index	8 January 2020	4 May 2020	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

### ***Actual value***

This means the actual amount payable from the investment at the end date.

### ***Fair value***

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

### **Why is this remedy suitable?**

I have decided on this method of compensation because:

- the trustees wanted Capital growth and were willing to accept some investment risk.
- It's been made clear from the evidence submitted that Mr R would've invested in assets which broadly resemble the MSCI WMA Private Investor Global Growth Index.

### **My final decision**

I uphold the complaint. My decision is that National Westminster Bank Plc should pay the amount calculated as set out above.

National Westminster Bank Plc should provide details of its calculation to the trust in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask R and Mrs R and Mr R to accept or reject my decision before 22 July 2022.

Charlotte Wilson  
**Ombudsman**