

The complaint

Mrs S complains about the difficulties her attorney has encountered when trying to access the accounts she holds with National Westminster Bank Plc (NatWest).

Mrs S is represented in her complaint by her attorney, Mr R.

What happened

Mr R says that he has been trying to gain access to Mrs S's accounts with NatWest since 2021, as she needs support when banking due to her health condition. Mr R lives in both the UK and overseas.

On NatWest's recommendation, Mr R first tried to get NatWest to add him as a third party to Mrs S's account in October 2021. However, NatWest withdrew the third party mandate application after Mrs S said that Mr R lived abroad.

In early 2023, Mr R tried again to add himself as a third party and also asked NatWest to register a lasting power of attorney (LPA) giving him the power to help make financial decisions on Mrs S's behalf. It took until June 2023, for NatWest to add Mr R as attorney to all of Mrs S's accounts.

In early 2023, Mrs S needed to make an urgent payment to HMRC. As she wasn't able to do this online and Mr R was out of the country, he employed a professional adviser to go with Mrs S to a branch of NatWest to make the payment.

NatWest says that when it received the application to add Mr R as a third party in late October 2021, it requested proof of address and identity from Mrs S. She provided her passport in branch but didn't supply proof of address. NatWest says that it contacted Mrs S who confirmed that Mr R was resident abroad. NatWest says it called Mrs S back to say that this meant it could not add Mr R as a third party.

NatWest says that the next third party request was not received until early 2023. But as it didn't hear back from Mrs S and a request to add the LPA was received, it closed the third party request.

NatWest says that Mr R completed the form to add the LPA to Mrs S's account in January 2023 but didn't supply the supporting identification and access code until mid-April 2023.

In late June 2023, NatWest cancelled Mrs S's debit card and cheque book on the understanding that she lacked capacity. NatWest apologised that Mrs S was left without access to her money for a few days and agreed that its' recommendation for her to travel into a branch to sort things out was not appropriate.

For the various failings and delays, NatWest has paid compensation totalling £400.

When our investigator first considered the complaint, he appreciated that most of the frustration and inconvenience was experienced by Mr R but explained that he could only consider the impact on Mrs S as account holder.

Our investigator recognised that there were times when Mrs S has not had full access to her accounts as NatWest cancelled her bank card. Our investigator understood that Mr R arranged for a professional adviser to accompany Mrs S to the bank to help pay an overdue tax bill. But without confirmation that Mrs S had paid this invoice, it was difficult to decide how much, if any of the cost should be reimbursed.

Our investigator agreed that NatWest could have helped clear up the confusion after Mrs S told the bank that Mr R lived abroad. This meant it did not add him as a third party to the account in 2021. And in 2023, paperwork relating to the LPA went missing in branch. Again, this caused a further delay in Mr R being added as attorney.

Overall, our investigator thought £400 compensation reflected the stress and inconvenience felt by Mrs S. He said that without further evidence, he could not recommend that NatWest pay any costs that Mrs S may have incurred due to the delays.

Mr R came back to our investigator with evidence that he had paid the professional adviser's invoice. He said that his main concern was the lack of training at NatWest coupled with the fact that it was not possible to speak with anyone overseeing LPAs. Mr R also said that he had spent wasted time travelling to NatWest and speaking on the phone.

Our investigator issued a second view in which he thought NatWest should pay additional compensation of £250 which could go towards the professional adviser's costs. But our investigator didn't agree that NatWest should pay the invoice in full. He thought Mr R and Mrs S should have been aware she had to pay a tax bill in early 2023. As Mr R had not been added as a third party in 2021, our investigator thought they should have taken steps ahead of 2023 to minimise potential losses.

Mr R disagrees with our investigator's conclusions about the professional adviser's costs. He points out that he was stuck overseas due to the Covid pandemic. As Mrs S didn't have access to internet or phone banking, the only way she could make the payment to HMRC was in branch. For this, Mrs S needed someone to escort and assist her. Mr R thinks that even if he had contacted NatWest in 2022, it would not have resolved the problem with the third party authority given its previous behaviour.

Our investigator agreed that NatWest jumped to the wrong conclusion about Mr R's residency status and should have challenged Mrs S when she said he lived abroad. Our investigator thought NatWest should have told both Mrs S and Mr R that it had cancelled the third party application. However, our investigator still thought that given the urgency of paying the tax bill in early 2023, it would have been reasonable to expect Mrs S or Mr R to follow up with NatWest in 2022. If they had done so, our investigator thought NatWest would have been on notice of the urgent need to add Mr R to the account. This would have made the likelihood of Mrs S incurring additional costs reasonably foreseeable.

Mr R remains of the view that NatWest's pattern of behaviour makes it unlikely a call or email in 2022 would have changed the outcome. Although he agrees with the award of £650 for the upset caused to Mrs S, Mr R thinks NatWest should reimburse the direct costs incurred when the professional adviser escorted Mrs S to branch. As if NatWest had dealt with the third party mandate properly in 2021, Mr R could have paid the tax bill on Mrs S's behalf without the need for outside help.

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 appreciate the work that Mr R has put into sorting things out but under the rules that govern the Financial Ombudsman Service, I can only compensate Mrs S - as NatWest's customer - for any loss she suffered or upset she has felt. I cannot make an award to Mr R for the upset and inconvenience caused to him.

I realise that I have summarised this complaint in less detail than the parties and I've done so using my own words. I have concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean that I have not considered everything that the parties have given to me.

I don't think there is any dispute that NatWest could have done things better when it came to trying to register the third party authority and then the LPA on Mrs S's accounts. Although Mr R has concerns about the process that NatWest has in place to deal with LPAs, the Financial Ombudsman does not supervise or regulate the businesses we cover. It would be for the regulator – the Financial Conduct Authority – to make decisions about the way in which a regulated business works. So, on the basis that NatWest made some mistakes, my decision focusses on whether our investigator's recommendation goes far enough to put things right for her. I am sorry to disappoint Mr R and Mrs S but I am satisfied that an award totalling £650 is fair compensation and will explain why.

£650 sits toward the top end of an award we might make where the impact of the business' mistake has caused considerable distress or inconvenience that takes a lot of additional effort to sort out. As I have said above, I can only reflect the impact on Mrs S, not Mr R. So, although Mr R has been trying to gain access to her account for a few years, the impact on Mrs S has been less far reaching. The upset caused has been limited to when she could not pay her tax bill in January 2023 and the confusion caused by needing to visit the branch with her financial advisor. Mrs S was also distressed when NatWest cancelled her debit card and cheque book at the end of June 2023. And NatWest acknowledges that it was inappropriate to ask her to visit the branch to sort the matter out. So, I don't have enough evidence to conclude that Mrs S has been subjected to continuous upset and inconvenience which would merit a higher award of compensation. I also note that in principle, Mr R accepts the award of compensation reflects the upset and inconvenience caused to Mrs S.

I have thought carefully about whether NatWest should be required to pay all or part of the fees for the professional advisor who accompanied Mrs S to the branch. I appreciate the urgent need to pay Mrs S's tax bill which resulted in Mr R instructing a third party to attend a branch of NatWest with Mrs S. But as our investigator explained in his view, we would only require a business to refund costs if these were reasonably foreseeable. And even if the loss was reasonably foreseeable, customers have a duty to try and mitigate the loss.

The evidence shows that after the attempt to add Mr R as a third party failed in late 2021, NatWest didn't receive a further request to add him until early 2023. I take Mr R's point that if his attempts to be added to Mrs S's account had failed in the past, why would it have made a difference if he'd tried to contact NatWest in 2022. However, I agree with our investigator that in the absence of attempted contact, NatWest wasn't aware of the urgent need for Mr R to have access to Mrs S's account in order to pay HMRC in time.

As the deadline for paying her tax liabilities was known months ahead, I think it would have been reasonable to expect Mr R or Mrs S to follow up with NatWest sooner than they did. By the time Mr R contacted NatWest in 2023, the deadline for making the payment was either close or had just passed. So, although Mr R felt he had no other choice than to employ Mrs S's financial advisor to accompany her to the branch, I don't find it fair to require NatWest to pay the costs as I don't think this was a reasonably foreseeable loss.

Even if I had decided that incurring the professional adviser's costs were reasonably

foreseeable, I would have looked for attempts made to mitigate the loss, possibly by exploring other ways to make the tax payment by cheque or debit card. I am also aware that HMRC usually responds sympathetically when someone has a reasonable reason for not making a payment on time. As Mr R had been appointed as her attorney, it may have been possible for him to speak to HMRC to delay payment until such time as he was added to her account or NatWest had found an alternative way to make the payment.

For the reasons outlined above, I find an award of £650 is a fair way to put things right.

Putting things right

NatWest should pay Mrs S £650 compensation from which it can deduct any compensation already paid in respect of this complaint.

My final decision

My final decision is that I uphold this complaint. In full and final settlement, I require National Westminster Bank Plc to put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 28 October 2024.

Gemma Bowen
Ombudsman