

The complaint

Mr C, in his capacity as the trustee of a trust, complains that Zurich Assurance Ltd allowed a former trustee to steal funds from the trust.

What happened

The background to this complaint is complex, and involves court action as well as previous contact with the Financial Ombudsman Service. I would like to reassure both parties that I have read and considered everything they have provided to us, but the brief summary below only includes events that I consider key to this complaint.

I note:

- The investment at the centre of this dispute was set up in April 2011. It is an investment bond, held in trust for the benefit of Mr C (who in 2011 was still a child). In 2011, the sole trustee of the trust was a person I will call Mr B.
- Between April 2011 and April 2015 Mr B withdrew funds from the Zurich investment and transferred them to a bank account with another institution. That institution became suspicious about Mr B's actions and called the police. It also shared its suspicions with Zurich, which put a temporary block on the investment. Ultimately Mr B was convicted of fraud in relation to his withdrawals from the Zurich investment.
- Mr B remained the sole trustee of the trust until 2023, when a court order removed Mr B as trustee and appointed Mr C in his place.
- In January 2024, Mr C complained that Zurich had allowed Mr B to steal money from the trust. Zurich said it had done nothing wrong. Mr C still thought that Zurich was responsible, so he referred the matter to the Financial Ombudsman Service.

One of our investigators looked at this complaint, but she did not uphold it. Briefly, she said:

- She was satisfied that Zurich had properly processed withdrawal requests which were made by Mr B in his capacity as trustee of the trust. She didn't think Zurich had any reason to be concerned about Mr B until it was contacted by the other institution.
- The withdrawals Mr B made from the Zurich investment were made to a bank account in the trust's name. Mr B then withdrew that money from the trust's bank account to an account in his own name. That means Mr B mis-used the funds after they had left Zurich.
- The other institution – the one that first raised suspicions about Mr B – has refunded the money that Mr B took from the trust. She didn't think the other institution would have done that if it had thought that Zurich was responsible.
- Mr C has complained that legal fees were incurred in relation to this matter, but she

thought those fees were incurred in relation to removing Mr B as trustee of the trust (and in relation to removing Mr B as executor of Mr C's father's estate). She thought those fees would have been incurred regardless of Zurich's actions, and so she didn't think Zurich should be responsible for them.

Mr C did not accept our investigator's conclusions, and pointed out a number of factual errors (such as a comment the investigator made about the relationship between Mr B and Mr C). Mr C also said that Mr B did not transfer all the money to the other institution our investigator mentioned, and that it is not clear what happened to the rest of the funds. He said the other institution only refunded the amounts that had gone through the other institution's accounts, and not the whole of the money that was stolen.

Further, Mr C said that Zurich was difficult throughout the process of removing Mr B, and additional legal fees were incurred as a result. In addition, Zurich should have unfrozen the investment when Mr B received a custodial sentence in 2016, yet the investment has received little to no interest between 2016 and today. Zurich has not explained where that money has gone, and has refused to send statements.

Our investigator wrote to Mr C again to apologise for the errors she had made. She also explained that she was only looking at what Zurich had done, and she had not seen any evidence to show that the funds Mr B withdrew from the Zurich investment went anywhere other than an account in the trust's name. She also said that the money held in the Zurich investment was not held as cash, and so interest would never have accrued. Instead, the bond was invested in various funds, and its value was subject to market fluctuations in the usual way. Zurich sent statements to Mr C once he became a trustee, but he was not entitled to those statements earlier.

Mr C still did not accept our investigator's opinion, and so the matter was referred to me.

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, whilst I am sorry to further disappoint Mr C I have decided not to uphold this complaint. I explain why below.

This is an extremely sad case, and I was very sorry to hear about what Mr C and his family have gone through. But my role here is to solely to consider whether Zurich has done anything wrong. I cannot consider the actions of Mr B or of any other party.

I think our investigator was right to say that Zurich made no errors here. It received instructions from Mr B, as the trustee of the trust, to make withdrawals from that trust. Zurich has shown us evidence to support its belief that the withdrawals were made to a bank account in the name of the trust. I haven't seen anything to suggest that Zurich ought to have had any suspicions about Mr B's behaviour before it was contacted by the other institution.

In my opinion, Zurich behaved appropriately once it became aware of the other institution's suspicions. It prevented Mr B from withdrawing any more funds from the investment, but the "freeze" that it applied did not prevent the investment from growing.

This investment bond was not held in cash, and it worked in an entirely different way to a bank account. Unlike a bank account, where the capital is safe but interest rates might fluctuate, the performance of the investment bond depended on the performance of the

different funds it was invested in. If the funds lost value, then the investment bond would lose value too (and its value might therefore have gone below the initial amount invested even if no withdrawals had been made). On the contrary, if the funds had gained in value, then the investment bond would have gained in value too.

I can see that the initial investment was £117,000, Mr B withdrew a total of £93,212.82, and (much later) Mr C withdrew £13,000 – meaning that if there had been no investment growth, no investment losses and no charges, the amount remaining in the bond would have been £10,787.17. However, as at 20 April 2024 the value of the trust's investment bond was £20,429.11, reflecting growth in the underlying funds.

Mr C told us that the other institution has only refunded the amounts that went through that other institution, and has not paid anything for lost interest (or indeed for lost investment growth). He considers that Zurich should be responsible for that lost interest. But I don't think Zurich did anything wrong when it allowed Mr B to withdraw money from the bond, and so I don't think it would be fair for me to order Zurich to pay anything in respect of lost interest or growth.

Mr C has provided evidence to show that he has had to pay a significant amount in legal fees in relation to this matter. I am sorry that he is in that position, but again I don't think Zurich has done anything wrong. It seems to me that the legal fees were incurred because of the need to remove Mr B from his position as trustee, and not because of anything that Zurich has done (or failed to do).

I know Mr C has suggested that the legal fees were higher than they should have been because Zurich was obstructive, but based on the evidence that has been provided to me I do not agree. I can see that Zurich did request additional documents on some occasions. For example, Zurich drew a distinction between this trust and Mr C's father's estate, meaning that even though Zurich knew Mr B was no longer the executor of Mr C's father's estate it wanted further evidence to show that Mr B was no longer the trustee of this trust. I can also see that following Mr B's conviction Zurich refused to release information to Mr C until it had been provided with evidence showing that Mr C was entitled to that information. But I can't see that Zurich behaved unreasonably, and overall I don't think it would be fair for me to order Zurich to make a contribution towards Mr C's legal fees.

My final decision

My final decision is that I do not uphold this complaint against Zurich Assurance Ltd. I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 September 2025.

Laura Colman
Ombudsman