

## **The complaint**

This complaint has been brought by the estate of Mr L. The estate says National Westminster Bank Plc (NatWest) delayed a payment to HM Revenue and Customs (HMRC), resulting in additional penalty charges, and shares depreciating in value.

The estate's represented in this complaint by the executors. To avoid confusion, and for the purposes of anonymisation, I'll refer to them in this decision collectively.

## **What happened**

The executors notified NatWest of Mr L's death in early 2021 and it issued a letter of condolence in February 2021. The letter contained information about how NatWest could support, as well as the balance of Mr L's accounts at that time.

The executors were given access to an online portal where they were able to upload documents required and request transactions to be processed on Mr L's current account.

Mr L's estate was valued as being subject to inheritance tax and a payment of more than £300,000 was due to HMRC. The executors submitted a request to NatWest to make this payment in August 2021.

Due to there being insufficient funds in the account to make the payment when requested, NatWest was unable to send the money to HMRC. The executors realised this in January 2022 and reinstructed NatWest to make payment.

Payment was made later in January 2022. The executors complained after this because the estate had been charged interest by HMRC due to the delay in receiving the inheritance tax payment.

In its final response, NatWest apologised that payment wasn't made when instructed, but did point out that it was the responsibility of the executors to ensure the HMRC bill was paid. It asked the executors to send evidence so it could consider compensating the estate.

The executors were unhappy with this response. They explained that in addition to the fees and charges, they'd lost out on the opportunity to sell a portfolio of shares at a good price. They felt they were owed around £69,000 from NatWest to make up the shortfall in share value.

After receiving evidence of the tax bill from the executors, NatWest agreed to contribute around £1,200 towards the additional charges.

The complaint was handled by a number of investigators at this service. Most recently the investigator said, on balance, that NatWest was responsible for the payment not going through, as the executors said they phoned it prior to making the instruction, and it confirmed there were sufficient funds to cover the tax bill. However, it was for the executors to ensure the HMRC bill was paid and so NatWest's offer towards the fees was fair.

Our investigator also explained to the executors that, because this service couldn't award

compensation to third parties, they couldn't ask NatWest to pay compensation for the service the executors had received. The executors didn't accept our investigator's view of the complaint and asked for it to be passed to an ombudsman.

### **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 recognise that the executors have suffered a bereavement. I appreciate they've had difficulties in their dealings with NatWest and understand the strength of feeling they have about this complaint.

The executors have sent evidence in response to our investigator's views and requests from NatWest. I assure them I've read and considered everything both they and NatWest have sent when reaching my decision. Although I haven't referred to all the points the executors raise in this decision, I've considered them and have instead focussed on what I believe to be the key issues of the complaint.

When considering what's fair and reasonable, I'm required to take account of relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to be good industry practice at the relevant time. Having done so, my review of the evidence has led me to the same overall conclusions as those reached by the most recent investigator and for broadly the same reasons. I'll explain why.

As the executors are now aware, this service doesn't have the power to award compensation for distress and inconvenience to third parties. The most recent investigator explained that's not possible.

This service can consider a complaint from an eligible complainant – and one that, for example, stems from their relationship with the business as a customer or potential customer. Mr L was NatWest's customer in the context of this complaint. He was the eligible complainant for our purposes and, following his death, those rights passed to his estate. Although the executors represent the estate in bringing this complaint, the complaint itself isn't theirs. Their role is to bring the complaint on behalf of the estate, in the same way a person might instruct a solicitor or other representative to act for them.

I don't have the power to look at a complaint from the executors in their personal capacity, or to look at how this matter has affected them personally. In saying this, I understand the points the executors have made regarding this. And it's clear this matter has been frustrating for them to deal with on a personal level, but that's not something I can specifically consider.

I can award compensation for the financial losses and/or inconvenience suffered by the eligible complainant. In this case, that's the estate and not its representatives.

The executors claim the estate – as opposed to them – suffered a financial loss regarding the share portfolio they wanted to sell on behalf of the estate but were unable to as a result of the HMRC bill not being paid.

When considering awards for losses, I can only award for *actual*, not prospective, losses. By this I mean, the portfolio hasn't been sold yet as far as I'm aware. Due to the nature of share prices, they're open to fluctuation, and the prices may increase again in time. Meaning that the estate might not end up losing out by holding on to the portfolio and selling at a later date.

In any case, I can't reasonably conclude from the evidence that NatWest was solely responsible for the sale not completing. Nor am I persuaded by the evidence the executors have submitted on this point either. They've provided what appear to be typed minutes from a meeting where the executors made an agreement to sell the shares. I'm not persuaded that this indicates, on balance, that the portfolio would have been sold when the executors now claim.

I can see NatWest has contributed towards the additional charges and interest applied to the estate's tax bill by HMRC. NatWest paid around £1,200. Given it's likely NatWest did make an error at the time of instruction, but that it was ultimately for the executors on behalf of the estate to ensure the HMRC bill was paid, I think its contribution's fair in all the circumstances.

### **My final decision**

For the reasons given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr L to accept or reject my decision before 28 October 2023.

Nimish Patel  
**Ombudsman**