

The complaint

Mrs K is unhappy with how National Westminster Bank Plc treated her after she became overdrawn.

What happened

Mrs K held a number of current and a savings account with NatWest. In early June 2019, after an intense period of gambling which left Mrs K overdrawn by over £9,000, NatWest decided to amalgamate all her debts into one of her current accounts, defaulted it and closed all her other accounts.

Mrs K was unhappy with the bank's decision, particularly with the short amount of time it had given her to bring her accounts in order and the lack of support offered at a time when she was financially and emotionally vulnerable. She asked us to look into the matter when the bank didn't satisfactorily resolve her resulting complaint.

I wrote to both parties setting out my provisional thoughts about the complaint and said, in summary, that:

- One of the Financial Conduct Authority's strategic objectives is to protect customers. The Principles for Business require businesses to pay due regard to the interests of its customers and treat them fairly. And it's published a number of occasional and consultation papers about vulnerable customers and the need to treat them fairly dating back to, at least, 2015. The British Bankers' Association also published a report about *'improving outcomes for customers in vulnerable circumstances'* in February 2016.
- There is currently no industry-agreed definition for problematic or harmful gambling. But I cited various publications and concluded it wasn't in dispute that harm could arise, or be suffered, as a result of compulsive gambling.
- I thought it was clear from the activity showing on Mrs K's account statements that she had a history of online gambling stretching back to at least 2015. In 2017 she told the bank her gambling was a hobby and under control. And I was pleased to see the bank discussed her gambling at that point as well as agreeing an affordable repayment plan and waiving some charges and interest. But I thought it arguable her pattern of gambling then and subsequently, as well as her loan applications (all of which the bank declined, seemingly on affordability grounds) suggested she might have an addiction and/or a compulsion to gamble which she was not entirely in control of, rather than it being a controlled hobby or pure entertainment. I thought the bank could have offered Mrs K additional support either then or subsequently given the ongoing gambling activity on her account and what the bank knew from its overall relationship with her.
- I didn't think NatWest had entirely understood or got to grips with Mrs K's financial situation, her resulting complaint or the evidence it had provided to support its view, particularly relating to her debit card payments having been completed 'offline' and without the bank's authorisation.

- Mrs K had become overdrawn because she made debit card payments to an online gambling company which were authorised at a time when she had sufficient money in her account. But, as often happens, there was a delay of a couple of days before the payments actually left her account. In the meantime, she moved her credit balance into another account and spent it a second time. Mrs K said she didn't realise she would end up overdrawn because the information she got from her online banking said there was enough money available in her account to cover the debit card payments she'd decided to make. But that was true at the time she made the payments. And it was her subsequent transfer out of the account that resulted in her becoming overdrawn when the debit card payments were deducted from her account. I had some difficulty understanding why the bank allowed Mrs K to have so many current accounts and why it permitted the credit balance to be moved when it could have been earmarked or ring-fenced to cover the payments that had already been authorised. But I also thought Mrs K knew what she was doing when she, in effect, moved money around and spent it twice given that she'd done something similar in 2017 and discussed the repercussions with the bank at that time. On the other hand, I thought it likely Mrs K was in the grip of a compulsive gambling episode at the time and may have been willing to do whatever it took to keep gambling. But I also thought it arguable her control over her actions may have been compromised and this, ultimately, resulted in her making decisions that were financially unwise and detrimental in the longer term. I took all of these considerations into account when deciding what more the bank could've done to help.
- Some of the activity on Mrs K's accounts during this intense period of gambling triggered the bank's fraud detection system. All the related flags were lifted when Mrs K confirmed the transactions were genuine. Mrs K had been gambling quite a lot in the weeks leading up to June 2020 when the account ended up overdrawn. Yet at no point, when the bank was questioning her about potential fraud, did it check her account and question or offer support related to the gambling. I thought the bank missed several opportunities, prompted by its own fraud detection systems, to reach out to Mrs K. But I couldn't know what would've happened if the bank had been more proactive and I thought it possible Mrs K would've simply offered further reassurances that her gambling was under control. I was also mindful that banks are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account and consumers are ultimately entitled to spend their money as they see fit.
- Instead of offering help to Mrs K at a potentially very vulnerable time – when she was significantly overdrawn and, possibly, at her lowest ebb – the bank decided to close her accounts at short notice offering little, or no, support. The bank's notes indicated Mrs K's accounts were blocked due to "card misuse" despite having previously accepted – when her accounts were in credit – Mrs K's assurances that the fraud flags were unnecessarily raised. And the decision was taken the following day to amalgamate all of her accounts into one, default it and close the rest. I thought it seemed like the bank was happy for Mrs K to use her numerous accounts in whatever way she chose, including gambling excessively, provided she used her own money and didn't go overdrawn. It stepped in only when the risk to itself became unacceptable and didn't try to help or protect Mrs K from the risks she posed to her own financial stability. Also the authorised overdraft facility held on one of her accounts was removed which would've meant higher, unarranged overdraft charges would be incurred. This decision and the way the matter was handled overall caused me concern.
- NatWest gave Mrs K seven days' notice before closing her account and the letter it sent referred her to a particular section in the account terms and conditions. But the terms and conditions didn't include a seven-day notice provision – they mention only immediate

closure or 60-days' notice to close. I thought the bank had acted outside the permitted terms and conditions and unfairly in the particular circumstances of the case, giving Mrs K insufficient time to make alternative banking arrangements and possibly causing additional confusion and stress at a time when Mrs K was already struggling. I was also concerned the letters NatWest sent about closing and defaulting the accounts made no mention of any assistance it or debt advice agencies might be able to provide if Mrs K wasn't able to repay her £9,000 debt within the short timeframe given. A subsequent phone call between Mrs K and the bank seems to have been very brief and little assistance was provided. The bank has obligations to treat customers in financial difficulty positively and sympathetically and I had seen little to indicate NatWest took that responsibility into account in its dealings with Mrs K.

- When Mrs K complained to the bank, she noted she had been caught in a gambling cycle, had stopped gambling because it almost pushed her to suicide and had nobody to support her financially. The bank agreed its staff had been unhelpful and dismissive when she was trying to get help and provided a phone number for its recoveries team. In the circumstances, I thought NatWest should have done more to support Mrs K and make up for its previous failings and poor service. But that opportunity was also missed. And I could understand why Mrs K had stopped engaging with the bank given the way it had treated her – she referred her complaint to our service rather than trying to come to a repayment agreement with NatWest.
- The debt was sold to a third party and a default, dated 31 October 2019, was reported to the credit reference agencies. Mrs K wanted the default to be removed but I couldn't fairly tell the bank to do so. Mrs K latterly said her family could help repay the debt but that hadn't happened and she'd previously told us she'd exhausted all of her own money and had no other financial support. In my experience, it's not unusual (or unreasonable) for lenders to default and sell on debts within 6 to 12 months when consumers aren't able to afford more than a relatively low monthly repayment amount. I was also conscious that the relationship between Mrs K and the bank had broken down to the extent that she might well find it easier and a preferable experience to correspond with the third party about the ongoing debt repayment. But I thought the default should be backdated to 22 July 2019 as the default notice of 24 June 2019 said the account would be defaulted 28 days later if the debt wasn't repaid in full.
- Overall, I thought NatWest should've done more to support Mrs K. But, while Mrs K was in a vulnerable situation, she also had a role to play and she did spend the money that led to the debt. And overall, taking into account everything that happened in this case, I didn't think it was fair to tell NatWest to make a contribution to the repayment of the debt held by the third party. However, I thought the bank should pay £1,000 compensation to Mrs K to recognise all of the missed opportunities and the unfair treatment including the premature removal of her authorised overdraft.

In response to my provisional findings, NatWest accepted it hadn't always delivered the expected standard of service. But the bank noted that, prior to June 2019, Mrs K had always operated her accounts in line with her agreed borrowing and hadn't sought help for a gambling problem. So NatWest didn't agree it should have intervened earlier in this particular case but it did offer to settle the complaint in the way I proposed.

Mrs K didn't accept my provisional findings and said, in summary, that:

- She's disappointed with my decision and still doesn't feel she's got the help she needs. She has felt suicidal in the past due to her gambling and the situation she now finds herself in. Her family are able to help her repay the debt in full but will only do so if the

default is removed from her credit file. The default exists because of NatWest's failings and she shouldn't have to suffer and be disadvantaged over the next six years until it automatically falls off her credit file.

- She didn't realise the debit card payments she'd made to the gambling company hadn't left her account straightaway. She thought the payments had been made and the credit balance consisted of money the gambling company had given back after she contacted them, severely upset about the money she'd already spent. On two occasions in the past she has managed to get refunds from gambling companies.

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, neither party has put forward any evidence or arguments that makes me think I should reach a different decision to the one previously set out and summarised above.

I have considered carefully what Mrs K has said about her understanding of how much money she had available to spend. But I have difficulty accepting her explanation. I say that because she hasn't provided any evidence to show a gambling company had agreed to refund money to her. I don't think it's unusual for there to be a delay between debit card payments being authorised and actually debiting a NatWest customer's account. And I think Mrs K could (and, arguably, should) have checked her account activity to see if those payments had left her account and/or if money had been refunded from the gambling company before she moved the credit balance. Mrs K had a number of accounts and moved money between all of them, sometimes very rapidly, so I can understand it may have been somewhat difficult for her to check her overall financial position. But she often used her debit cards and used her online/mobile banking facility to move money around between her accounts and that is something she was, ultimately, responsible for managing and I'm satisfied her previous actions indicate a reasonable understanding of the process.

Overall, I still don't think the bank should refund any of the payments Mrs K made to the online gambling companies or instruct the credit reference agencies to remove the default from her credit file. But it needs to take some other actions to put things right.

Putting things right

In order to put things right National Westminster Bank Plc should:

- Make arrangements to ensure Mrs K's credit file is updated to show her account default date as 22 July 2019. It may need to liaise with the third party that now owns the debt to ensure this is reported correctly. If so, it should do so within 28 days of the date my decision is accepted by Mrs K.
- Pay £1,000 compensation to Mrs K.

My final decision

My final decision is that I uphold this complaint in part and instruct National Westminster Bank Plc to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 2 March 2021.

Ruth Hersey
Ombudsman