

The complaint

Miss B complains that National Westminster Bank plc didn't allow her to have a payment arrangement to clear a debt outstanding on a joint overdraft account and then entered a default against her with credit reference agencies.

Mr B, the joint account holder, has consented to our service investigating Miss B's complaint.

What happened

Miss B and Mr B had a joint current account with NatWest. There was an agreed overdraft on the account. Miss B says she split up with the joint account holder in 2018 and didn't have access to the account. She approached NatWest in 2019 and asked it to remove her name from the account. It refused to do this because the account was overdrawn.

Miss B says she contacted NatWest in July 2019 to try to get some information about the state of the account. She was told the joint account holder had registered an Individual Voluntary Arrangement (IVA). NatWest told her she would have to repay the outstanding debt. Miss B says she was willing to do this, but she didn't have the means to repay it all at once and she wanted NatWest to agree a repayment plan with her.

She says she got a letter from NatWest in October 2019 which informed her that the account had been passed to a debt collection agency. The letter also said she hadn't come to a suitable arrangement with NatWest. She says she was never given the opportunity to come to an arrangement with NatWest and she now finds herself in a very difficult situation. A default has been registered against her name and she hasn't been able to re-mortgage as a result. She complained to NatWest.

NatWest investigated her complaint. It said it had reviewed its records and there was no evidence that Miss B had tried to set up a repayment plan. It also said she'd told it on 15 July 2019 that she wouldn't be agreeing to any repayment plan. NatWest also said she was jointly and severally liable for the overdraft. So, when the joint account holder entered an IVA it was able to pursue her for repayment of the outstanding debt.

It said it had sent her letters advising her to contact it, but she hadn't done that. So, it had referred the debt to its debt collection agents and had entered the default with credit reference agencies.

NatWest acknowledged that it hadn't provided her with correct information when she'd contacted it. But it said it had refunded interest and charges and applied a credit of £100 to the account. It said it had also sent her a cheque for £100 by way of compensation. It said she could agree a repayment plan with the debt collection agency.

Miss B wasn't satisfied with this response and so she complained to our service. Our investigator looked into Miss B's complaint. She said she was satisfied NatWest had sent Miss B letters to tell her about the outstanding debt on the account. She also said Miss B was aware that the account was joint and there was an agreed overdraft on it. NatWest

hadn't done anything wrong when it had pursued her for repayment and registered the default.

She agreed that NatWest had given Miss B incorrect information, but it had agreed to refund certain fees and interest and it had offered Miss B compensation. So, our investigator didn't uphold the complaint.

Miss B didn't agree. She said our investigator hadn't considered the emotional element of the complaint. And she hadn't taken into account the difficult circumstances Miss B found herself in as a result of NatWest's actions.

Our investigator considered what Miss B said but she didn't change her view.

Miss B wasn't satisfied and so the complaint was passed to me to decide.

I issued a provisional decision in which I said:

What I've provisionally 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.

At the outset I'd just point out that I won't be considering Miss B's complaint about NatWest's decision not to remove her from the joint account. That matter has been dealt with separately.

Miss B was a party to the joint account. I've looked at the "Add a new party to an Account" form which Miss B signed on 1 December 2016. This meant that the account which was formerly in the sole name of Mr B was changed into a joint account. At that time there was an overdraft of £1,000 on the account.

I can see on the form Miss B signed, she agreed that requests to increase the overdraft could be made by either her or Mr B. And if this happened there was no need to send any pre-contract information to the other party. She also agreed that statements of account didn't need to be sent to both parties to the account.

Once she became a party to the account she became jointly, as well as separately, responsible for repayment of the overdraft on the account. This is so even though she says she was separated from Mr B and didn't have access to the account for over a year. I think she knew this and that was why she approached NatWest and asked it to remove her from the account.

NatWest says it refused that request because of the outstanding overdraft on the account. And, because she is jointly and separately liable for the overdraft, it is the case that NatWest can ask her to repay the whole of the overdraft.

NatWest became aware of Mr B's IVA in or around June 2019. So, at that stage it appears it decided to pursue Miss B to repay the debt. I can see that it sent her letters in June and July. It also sent her text messages. Those letters and text messages made it clear that there was an outstanding debt and she needed to contact NatWest to discuss repayments. Miss B did contact NatWest on 15 July.

I've listened carefully to the telephone call of 15 July. I can see that some of the information she was receiving was new information. So, for example she was told that Mr B had registered an insolvency. He had told her he had made a debt

management plan. NatWest did make it clear during the call however that Miss B would be held liable for the debt.

It also told her that if the debt wasn't repaid a default would be entered.

Miss B told NatWest twice during the call that she wouldn't be agreeing a repayment plan with it. She thought it wasn't fair that she should have to repay this debt given her circumstances. I'm sure this was a very difficult time for Miss B. She'd been left with a debt and she had significant other personal and financial responsibilities to deal with. So, I can understand why her initial reaction was to say that she couldn't agree to a repayment plan.

But she would've had time to reflect on this after the call. And, shortly after the call she was sent a further letter from NatWest dated 15 July. That letter makes it clear that the situation was at a serious stage, but NatWest could still help. The letter sets out that a termination notice could be issued, and a default could be registered with credit reference agencies if Miss B didn't take action to agree a way forward.

The letter urged Miss B to contact NatWest where its team would talk through the available options.

Miss B says she wanted to agree a repayment plan. But I don't see any evidence that she approached NatWest in response to its letter of 15 July or that she made any proposals regarding a repayment plan.

So, I've thought about whether things would've been different if NatWest had done everything it should've done before it decided to register the default. And, I've noted that it didn't send Miss B a default notice. It also didn't send her a termination notice – which was what it had told her it would do.

A default notice is usually sent when it looks unlikely that a customer will be able to afford to pay back what is owed. In this case I can see why NatWest might have reached that conclusion following the telephone call on 15 July. But that doesn't mean it shouldn't have sent a default notice or a termination notice.

NatWest has now accepted that it didn't send a default or a termination notice before it registered the default with credit reference agencies.

It's not clear what action Miss B would've taken if the default notice and the termination notices had been sent. But, in her complaint she says that NatWest didn't give her the opportunity to come to an arrangement with it. And, although I think she had been given an opportunity during the call on 15 July to come to an arrangement I can't be certain that she wouldn't have changed her mind if she'd received the default and termination notices. Those letters are strongly worded and explain the consequences of not following them clearly. So, I think it's likely that Miss B would have acted differently if she received such clear notices of NatWest's intentions and the consequences of not following them.

NatWest wrote to Miss B again in October 2019. It told her the case would be passed to debt collection agents. But by that stage the default had already been registered.

So, having considered everything here, I'm satisfied that if the default and termination notices had been sent to her, Miss B would've had a further opportunity to consider the position and she may have been able to reach an acceptable arrangement with NatWest before the default was registered.

Putting things right

NatWest has already agreed to refund certain fees and interest that'd been applied to the account in the period from April to August 2019. In total it refunded £488.26 on 22 July 2019 and made a further interest adjustment of £151.88 credited on 24 September 2019. That interest adjustment appears to include a refund of interest charged in July and August 2019. I can see a further interest adjustment credited to the account on 29 October 2019 for £75.12 but it's not clear what that relates to. No further interest or charges have been debited to the account since.

NatWest also credited the account with £100 on 22 July 2019. And, since that date any repayments Miss B has made have reduced the capital sum outstanding.

NatWest also offered to pay Miss B a further £100 by way of compensation for the incorrect information it provided to her about how she could make repayments. She has declined this offer.

NatWest has now said that it's willing to remove the default. It says that provided Miss B pays the outstanding balance in full within the time period set out on the default notice, it will not issue a termination notice. If Miss B doesn't pay the outstanding balance in full NatWest says it will issue a termination notice and will proceed to register a default with credit reference agencies.

Miss B has indicated to our service that if a default notice is issued now, she will repay the outstanding balance in full within the time period on the default notice.

Because of what Miss B has said I intend to require NatWest to remove the default with credit reference agencies and issue Miss B with a default notice.

If Miss B doesn't repay the outstanding balance in full within the period set out in the default notice, then NatWest would be entitled to proceed to issue a termination notice and register a fresh default with credit reference agencies. Once a default is registered it would remain on her credit file for six years from the date of registration.

I've also considered whether Miss B should be further compensated because of what's happened. It is the case that she is jointly and separately liable for the outstanding debt. And, NatWest was entitled to pursue her for recovery of the whole balance outstanding.

As mentioned above, NatWest has refunded interest and charges applied to the account since April 2019. I think that's fair and reasonable. It's also credited the account with £100 on 22 July 2019. I can see that it offered to pay Miss B a further £100 by way of compensation for distress and inconvenience. That was before it accepted it hadn't issued the default notice.

Miss B has experienced a prolonged period of distress and inconvenience whilst this complaint has been investigated. And I can appreciate she would've been worried about her credit rating. She says she hasn't been able to re-mortgage as a result. But she hasn't provided any evidence to support that. And, it is also the case that the joint account was out of order for some time even before the default was registered.

So, having considered everything here, my provisional view is that, in addition to the £100 it's already offered to pay her and which she declined NatWest should pay Miss B an additional £150 (being £250 in total) by way of compensation for the distress

and inconvenience she's experienced. For the avoidance of doubt this is in addition to the £100 that has already been credited to the joint account on 22 July 2019.

My provisional decision

For the reasons given above I intend to uphold this complaint about National Westminster Bank plc and I would intend to require it to take the following actions:

- *remove the default it has registered with credit reference agencies;*
- *issue a default notice requiring Miss B to pay the current amount outstanding on the account but if Miss B doesn't pay this amount in full within the specified period set out in the default notice then National Westminster Bank plc can proceed to issue a termination notice and if payment is still not made by the date set out on the termination notice it may proceed to register a default at credit reference agencies; and*
- *pay Miss B a total of £250 by way of compensation for the distress and inconvenience she's experienced.*

In response to my provisional decision NatWest said it had no further comments to make.

Miss B also responded to my provisional decision. She made several points. She said:

- NatWest hadn't treated her fairly when it hadn't removed her name from the joint account. She provided a summary of information she'd previously given to our service about this and asked for this to be taken into account.
- She'd applied for credit recently and it'd been declined.
- She was concerned she'd have to borrow to pay off the debt. She'd hoped NatWest would've agreed to a repayment plan.

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.

As I said in my provisional decision the complaint Miss B raised about NatWest's decision not to remove her name from the joint account has been dealt with separately. So, I haven't made any findings about that. But I did read all of the information Miss B provided to our service before issuing my provisional decision. And, as mentioned in my provisional decision, I took into account the forms she'd signed when she agreed to be a party to the joint account. As a result, she was jointly and separately liable for the overdraft on the joint account.

In her response to my provisional decision, Miss B told us she'd applied for credit recently and it'd been declined. She says this is because of the default that's been registered. Miss B provided us with further information to support what she'd said. She applied for a mortgage in June 2020. I can see she was issued with a decision in principle by the lender at that time. She says her application was declined. Miss B also provided us with a copy of her credit report.

I've looked at Miss B's credit report. Information recorded with credit reference agencies can impact on credit scores. Different lenders approach this in different ways and it's up to each lender to decide how to use the information that's recorded when making a credit assessment for lending purposes.

I've also noted the credit report indicates Miss B was financially associated to Mr B and to another party at the time when she applied for credit. Lenders can use the associate's information to help make decision. In these circumstances, I'm not persuaded Miss B's

application for credit was declined only because of the default which NatWest had registered. So, I don't think it'd be fair or reasonable to increase the amount of compensation I'd provisionally decided should be awarded in this case.

I've also considered what Miss B told us about having to borrow to clear the amount outstanding with NatWest.

As I said in my provisional decision, NatWest spoke to Miss B on 15 July 2019. At that time there was a discussion about entering a repayment plan but Miss B didn't want to do that. I've said NatWest should've sent her a default notice before registering a default. But, it's important to point out that even if it had sent the default notice at the relevant time, that doesn't mean it would've been obliged to agree to a repayment plan.

I can understand why Miss B doesn't want to have to borrow to clear the amount outstanding. But NatWest has agreed to remove the default. I think that's fair and reasonable. If Miss B doesn't repay the debt in full within the timescales set out in the default notice, NatWest says it will register a fresh default. And, as I've said in my provisional decision, that default would remain on Miss B's credit file for a further six years from the date it is registered. So, although Miss B has concerns about having to pay off this debt in full, she will need to do that if she wants to prevent a fresh default from being registered.

So, having considered everything here, I've decided to uphold this complaint for the reasons set out in my provisional decision. Miss B has provided further details about a recent application for credit having been declined. She's also raised concerns about having to borrow to clear the outstanding debt. But, as explained above, the information she's provided has not changed my view about what NatWest should do to resolve this complaint.

My final decision

For the reasons given above I uphold this complaint about National Westminster Bank plc. I now require it to take the following actions:

- remove the default it has registered about Miss B's account with credit reference agencies;
- issue a default notice requiring Miss B to pay the current amount outstanding on the account. If Miss B doesn't pay this amount in full within the specified period set out in the default notice National Westminster Bank plc can proceed to issue a termination notice and if payment is still not made by the date set out on the termination notice it may proceed to register a default at credit reference agencies; and
- pay Miss B a total of £250 by way of compensation for the distress and inconvenience she's experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Mr B to accept or reject my decision before 5 January 2021.

Irene Martin
Ombudsman