

The complaint

A, a limited company, complains about how National Westminster Bank Plc has dealt with the repayment plan for its loan. Mr F, a director, brings this complaint on behalf of A.

What happened

Mr F said that A had previously complained to our service about its loan, some years ago. He said we had agreed that a payment plan should be set up, and no interest charged until the loan was paid off. But Mr F said that NatWest was over-reporting the balance of the loan by £9,617. That was partly because it had added some money to the loan, and partly because it had failed to credit recent payments towards the loan. Mr F said NatWest had also sold the account on to a third party. He wanted it to take the loan back.

Mr F said NatWest had sent letters to him and another director at home, making it seem as if they were personally liable for the debt.

NatWest said that Mr F and his fellow director had given personal guarantees for this debt, so they were personally liable. But it wasn't asking them to repay.

NatWest accepted that the amount it was asking for in these letters wasn't right. It said that letters were automatically populated with the account balance, which was inaccurate in this case because NatWest is manually calculating how much A owes. It said it had recently issued a statement of liability, and the balance shown on that document was accurate. It said it would pass this total on to the company that now owns the debt.

NatWest said it had made a commercial decision to sell the debt, in line with its policy. It said that decision wasn't based on the repayment of the debt. It said the payments that Mr F had made to it would be passed over to the company that now owned the debt. And it asked Mr F to talk to the agency now charged with collecting the debt about the balance of the loan in future.

Our investigator didn't think this complaint should be upheld. She said that the sale of the loan was something that NatWest was entitled to do under the terms of A's agreement with it. And our investigator couldn't see any detriment to A as a result of the sale. She said NatWest has explained that the two directors gave personal guarantees for the loan, and that when it wrote to the directors, the business and guarantor accounts had already been sold, so NatWest was only able to send correspondence to their personal address. Our investigator didn't think that was unreasonable.

Mr F says he wanted NatWest to write off A's debt, remove any adverse data recorded on his credit file and that of the other director, and pay compensation. But our investigator didn't think NatWest needed to do any more. NatWest had said it doesn't record any information about a limited company's account on a personal credit file, so it has no adverse information to remove from the directors' credit files. And, although she agreed NatWest did have an incorrect balance recorded for the loan, it had amended this. Our investigator said she couldn't see that this had caused any detriment. And even if it had she wouldn't be able to award compensation for distress and inconvenience. A is a company, it can't suffer distress

and it hasn't been inconvenienced. So she didn't think NatWest had to do any more.

Mr F said he would send in the final decision he'd received for A's earlier complaint, in 2013. He thought that by selling this debt, NatWest wasn't complying with that decision. Mr F said the debt collection agency was now demanding repayment. But our investigator said that this was probably because Mr F had continued to pay NatWest, rather than starting to pay the agency which was now responsible for the debt.

Mr F has since confirmed that the debt collection agency has been given a reduced balance. He said the adjustment clearly told him that NatWest didn't study this case fairly, but placed it in a block with all its debtors and wrongly made the assumption that A wasn't going to be able to pay this. He said he was still considering legal action on behalf of A, and wanted NatWest to write off the debt to avoid that. He said he intended to continue paying NatWest for this debt, but then NatWest closed the account he was paying into, and he was forced to start paying the debt collection agency.

Mr F wanted his complaint to be considered by an ombudsman, so it was passed to me for a final decision.

My provisional decision

I issued a provisional decision on this complaint and explained why I did not propose to uphold it. This is what I said then:

Mr F said NatWest had written to his personal address, and that of the other director, to tell them about the sale. He thought NatWest should've written to the company, and he said this meant that he and the other director were concerned they were becoming personally liable for the debt. He was also concerned that NatWest had recorded adverse information on his personal credit file and that of the other director, although NatWest says it doesn't do this.

I think it would help if I clarify that I can't consider a complaint about issues personal to Mr F, or to the other director, as part of a case brought by a company. Our service can make a separate decision on those areas if Mr F would like.

I can only consider the impact on the company. And I don't think that A was disadvantaged by NatWest writing to its directors at their home address.

Mr F told us that NatWest has sold A's debt to a third party, which is using a debt collection agency to get the money back. He says that breaches a decision our service had previously issued. I don't know if it does or not, because I don't have this decision. I haven't been able to locate it here, and Mr F hasn't sent it to us. So I make no finding on this point, including on whether our service would have jurisdiction to consider it.

Mr F says that NatWest made a serious mistake when it sold the debt, because A had almost finished repaying it. But NatWest said it sold this debt as part of its overall business policies. It has told us that this had nothing to do with how A was paying off the debt.

It's not unusual to see a bank sell off older debts to a collection company. And NatWest has shown us it has the right to do this under the terms of its agreement with A. Although I know Mr F wants NatWest to take this debt back in house, I haven't been able to identify any serious disadvantage faced by A, in paying this debt to a third party. I don't think that NatWest has to buy this debt back.

Mr F has also pointed out that NatWest gave the third party who bought this debt the wrong balance. I can see that it has taken some time to put this right, but I think that's also because Mr F continued to direct payments towards A's loan to NatWest, after the debt had been sold. That meant NatWest had to forward that money to the third party, and it caused a delay in updating the balance of this account. I understand this has now been put right, and Mr F is making payments to the collection agency appointed on behalf of the new owner of this debt.

I know that Mr F feels strongly about this issue, but on the evidence I've seen so far, I don't think that NatWest has disadvantaged A by selling this debt. It did need to correct the amount that A owes, but I understand that it has done that. So I don't think NatWest has to do any more to put this right.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Mr F sent a substantive reply. NatWest said it had nothing to add.

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.

Mr F set out for us what he said the content of the previous decision was. He said that decision had upheld A's argument, that the loan shouldn't have been defaulted as A had agreed to pay. He said that unfortunately, once that had happened it couldn't be reversed. So it was agreed that all charges and interest on the loan would cease, and A would pay off the debt in instalments. Mr F said it was also agreed that this debt would stay with NatWest as long as payments were maintained. Mr F didn't forward this decision to us.

It wouldn't be appropriate for me to comment here on a previous decision by our service, especially as I haven't seen this myself. Final decisions of our service which have been accepted by the complainant may be enforced through the courts. Mr F may wish to seek further advice for A on whether this would be an appropriate route in this case.

Mr F said I'd referred to NatWest over-reporting the loan, and said this was partly because NatWest had added some money to the loan, and partly because it had failed to credit recent payments towards the loan. Mr F said that the over-reporting was 99% due to money NatWest added. He said that repayments made to A's account were passed over to the debt collection agency within three days.

Mr F said that A had found it difficult to contest the amount of the loan, as both NatWest and the agency were unhelpful. Fortunately A had kept its own records.

I note what Mr F has said about the over-reporting. I understand that this issue has been resolved, and I can see that NatWest apologised for this in its letter of 13 July 2020. I think that's a fair resolution to this part of A's complaint.

Mr F said he wanted to know why NatWest had suddenly started writing to him and another director at home, when no other correspondence has ever been sent there.

NatWest has said this was done because Mr F and the other director had given personal guarantees for the debt. It wasn't asking them to repay the debt. I think it's fair for NatWest to take steps to notify directors when a change happens to a debt they have guaranteed.

Mr F said A had never received any reply from NatWest containing the details I'd set out in my decision (that it was a purely commercial decision to sell the debt). He also said it hadn't returned any of his calls or email messages.

I can see that NatWest's response to Mr F's complaint was sent by email on 13 July 2020. It appears to have been sent to the email address that Mr F gave our service. So I do think this was sent by NatWest. If this has not arrived safely, or has been misplaced since, our service can forward this to Mr F.

On the broader point that NatWest has now stopped direct communications with Mr F, a lot of businesses do prefer not to communicate directly with a complainant while a complaint is being considered by our service. Things can get very confused if there are several different lines of communication open. I don't think it would be inappropriate here for NatWest to take that approach.

Mr F said NatWest still needed to explain why it had changed things now, with only a year left on the debt.

NatWest has said the decision to sell this debt was a purely commercial decision. I noted in my provisional decision that this is not an uncommon thing for businesses to do with older debts, and it shouldn't be taken as a sign that NatWest had any concerns about the conduct of this debt by A.

Mr F said NatWest shouldn't have forced A over the last two months to pay the debt collection agency. He understood that while an investigation is going on, until a final decision is made, NatWest was not supposed to do anything.

NatWest had already sold this debt, before Mr F brought A's complaint to our service. If NatWest then asked A to pay the agency that's currently managing the debt, that wouldn't reflect a change that happened during our investigation, it would reflect the position before our service was asked to look at this. Again, I don't think that would be inappropriate.

Mr F said that A intends to seek further legal advice on this matter. He said NatWest has made changes to the account without any discussion and the directors feel this is unfair.

I set out in my provisional decision that I haven't been able to see that selling this debt has caused any detriment to A. And I haven't seen anything to make me think that NatWest needed to discuss this debt sale with A before it was done. So I don't think that what NatWest has done is unfair.

I know Mr F will be disappointed, but I still don't think A's complaint should be upheld. It's a matter for Mr F to decide whether he would now like to take further legal advice on this issue for A. I note only that if this decision is rejected by A, then neither A nor NatWest will be bound by it.

My final decision

My final decision is that I don't uphold this complaint.

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

Esther Absalom-Gough
Ombudsman