

## **The complaint**

Mrs M complains about National Westminster Bank Plc (NWB) and the way they've handled her accounts since she entered into a Debt Management Plan (DMP).

## **What happened**

Mrs M entered into a DMP in 2009. This plan included two current accounts and one mortgage account provided by NWB. Mrs M has maintained payments to these accounts in line with the DMP that was agreed. But during the lifetime of this plan, Mrs M has been unhappy with the actions of NWB. So, in early 2021, she raised a complaint.

Mrs M was unhappy with interest and charges that had been applied to her accounts when she first entered into the DMP. She thought these were unfair and wanted this interest and charges to be removed. Mrs M was also unhappy that NWB hadn't provided her with regular statements as other lenders had done. And finally, Mrs M wanted clarification on a transaction made in 2018 on one of her accounts. Mrs M explained she'd had to contact NWB on several occasions without receiving satisfactory answers and so, she wanted to be compensated for the upset this caused.

NWB responded and didn't agree. They explained they didn't issue statements for accounts that had been defaulted, such as the ones Mrs M held. So, they didn't think they'd acted unfairly in relation to this complaint point. And they explained the transaction Mrs M wanted clarification had been used to offset her debts, so they didn't think she'd been disadvantaged by this. And finally, they thought Mrs M's complaint about the interest and charges fell outside of our time limits. So, they didn't think they needed to do anything more. Mrs M remained unhappy with this response, so she referred her complaint to us.

While the complaint was with our service, NWB reviewed their initial response and offered to pay Mrs M £150 to recognise any difficulties she may have faced when trying to contact them. Our investigator put NWB's offer to Mrs M, but she didn't think this adequately addressed her concerns or the impact she'd suffered.

So, our investigator looked into the complaint. And they upheld it. They explained they were unable to consider Mrs M's issue relating to the interest and charges, as they'd seen evidence to show Mrs M spoke to NWB about this in 2010. So, they thought the complaint fell outside both the six-year and three-year time limits. I'm aware Mrs M accepted this and agreed for our investigation to continue on this basis.

Our investigator thought NWB had acted fairly when using the credit to offset Mrs M's existing debt in 2018. And they also didn't think NWB had an obligation to send Mrs M statements as the accounts were defaulted. But he didn't dispute Mrs M's testimony regarding her difficulties speaking to NWB and he thought the £150 NWB offered was a fair one to recognise this.

Mrs M didn't agree. She referred to the Consumer Credit Act (CCA) and why she thought this supported her belief NWB acted unfairly by not sending her statements. So, she wanted NWB to change their policies, taking the CCA into consideration, and she also wanted to be

compensated £631. As Mrs M didn't agree, the complaint has been passed to me for a decision.

### **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, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached my decision, I think it would be useful to explain exactly what I've been able to consider. Mrs M didn't dispute our investigators initial view that the issue surrounding the interest and charges fell outside of our time limits due to the length of time that had passed since they had been applied to the account, and Mrs M's awareness of this. As it hasn't been disputed, I think it's reasonable for me to assume Mrs M accepted this. So, I haven't considered this any further.

I'm aware Mrs M has asked for £631 to resolve her complaint. And that amount is exactly what she believes to be her financial loss due to the interest and charges I've referred to above. As the complaint about these interest and charges won't be considered, any direction or award I make won't consider, or be based upon, this potential financial loss.

I've first thought about Mrs M's complaint regarding NWB's failure to provide her with statements for her accounts included within the DMP. Mrs M doesn't think this is fair as other lenders have continued to do this, so she thinks NWB had an obligation under the CCA. But I don't agree.

The term Mrs M refers to in relation to the CCA is in place for accounts that are open and importantly, not defaulted. As Mrs M's account was defaulted, I don't think there were any requirements for NWB to provide her with regular statements.

But despite this, I'd still expect NWB to do so if this is what they stated they would do within the terms and conditions of the accounts' agreements. These terms explain *"we'll provide you with statements every month and free of charge, provided that there have been payment transactions on your account during the month"*. In this situation, as the accounts were defaulted and could no longer be used, there were no payment transactions. So, I don't think NWB acted outside of the terms of the accounts when not providing regular statements.

I've also thought about whether NWB acted unfairly by deciding not to provide these statements. And I recognise Mrs M has explained other lenders have continued to provide her with statements for defaulted accounts. But crucially, this was the other lenders' own decision to do so. And each lender has the ability to set their own business process. In this case, it's NWB's business process not to send statements in those situations. And our service is unable to comment upon, or force lenders to change, business processes they put in place. This would be the role of the industry regulator, the Financial Conduct Authority. So, I'm unable to say NWB have acted unfairly, or done anything wrong, by not sending Mrs M regular statements.

And even if I thought they had; Mrs M had the ability to request these statements if she needed them. So, I don't think this would've had any material impact on Mrs M as they would've been available if her need for them arose.

I've then turned to the transaction Mrs M wanted clarification on. I can see £35 was paid into her staff account, which was then transferred into the main account that was being used to pay off the debts she owed. While I'm unable to say exactly what this £35 was for, NWB are able to use credits that come into a customer's account to clear outstanding arrears. This is what's happened on this occasion and Mrs M has received a financial benefit from this as it's left her with less debt to pay. So, I can't say NWB have acted unfairly or that Mrs M has been negatively impacted in any way. Because of this, I don't think NWB need to do anything more for this aspect of the complaint.

But NWB have accepted Mrs M is likely to have needed to take time out of her usual routine to contact them. And they've accepted they made the upset and stress this would've caused worse, due to the difficulties Mrs M faced when speaking to them. To recognise this, they offered £150 to compensate Mrs M for any upset she's been caused. This offer was made after NWB's initial complaint response and after Mrs M contacted our service. As NWB themselves have accepted they acted unfairly, I don't intend to discuss this any further. Instead, I've then thought about what I think NWB should do to put things right.

### **Putting things right**

Any award or direction I make is intended to place Mrs M back in the position she would've been, had NWB acted fairly.

As I've explained above, I'm unable to consider the financial losses Mrs M thinks she incurred due to the interest and charges being applied. And even so, I think Mrs M would have incurred these even if NWB had acted fairly, as the £150 NWB have offered is for more recent problems Mrs M has faced when attempting to contact them.

I recognise it would've been stressful and time consuming for Mrs M when she needed to contact NWB to discuss her issues. But I think NWB's offer of £150 is a fair one, and in line with what I would've directed had it not already been made. I think it fairly takes into consideration the time Mrs M has lost, and the stress she would've felt when speaking to them, while also recognising NWB haven't acted unfairly regarding the complaints Mrs M has raised. So, I think NWB should pay Mrs M £150 and I don't think it would be fair for me to ask NWB to increase this.

I'm aware Mrs M has expressed her interest in this offer being used to offset her existing debts. Mrs M should look to arrange this directly with NWB if this is something she still wishes to do.

### **My final decision**

For the reasons outlined above, I uphold Mrs M's complaint about NWB and direct them to take the following action:

- Pay Mrs M £150 to recognise the stress and inconvenience she's been caused when speaking to them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 28 March 2022.

Josh Haskey  
**Ombudsman**