

The complaint

Mr A complains National Westminster Bank Plc (NatWest) applied a default unfairly.

What happened

Mr A held a credit card with NatWest and owed money on the card. Mr A had missed a couple of payments, but not enough to start the default process.

In August 2015 Mr A was declared bankrupt. Mr A has said this was a petition from a creditor and he was out of the country when it happened, so he couldn't defend the bankruptcy.

NatWest was notified of Mr A's bankruptcy in August 2015 and it applied a default to the credit card. Mr A paid off his credit card, in full, in October 2015.

Mr A had the bankruptcy annulled almost a year later and says he told NatWest about the annulment at the time.

Mr A checked his credit file in mid-2020 and saw the default was still registered against his credit card. Mr A felt this was unfair as his bankruptcy had been annulled so he complained to NatWest.

Mr A said having the default on file would have meant he'd paid more for financial products. And Mr A said he'd been declined lending in the past five years and felt this was due to the default from NatWest.

Mr A also said NatWest had referred to him using his brother's details and sent him some of his brother's information.

NatWest responded to Mr A's complaint and said it thought the default was an accurate record. NatWest explained the default was applied when Mr A was declared bankrupt and would stay on file for six years.

NatWest acknowledged some of the service it had provided wasn't as good as it should have been. To compensate for this, it sent Mr A a cheque for £50. And NatWest said it had checked Mr A's records for a data breach but felt his information was safe.

Mr A didn't agree and brought his complaint to this service.

An investigator looked into things and didn't think Mr A's complaint should be upheld. The investigator thought the default was a fair and an accurate record of how the credit card had been handled.

The investigator felt the £50 NatWest offered was enough to compensate for the poor service Mr A had experienced.

Mr A didn't agree with the investigator. Mr A said he understood why NatWest had originally applied the default but should have removed it when his bankruptcy was annulled. Mr A also said the £50 wasn't enough to compensate for the service or the data breaches.

Mr A asked for an ombudsman to decide things.

My provisional decision

I didn't agree with the investigator. I thought Mr A's complaint should be upheld.

I issued a provisional decision and said:

There's little dispute Mr A was declared bankrupt and NatWest was right to apply a default to the credit card. I think this was the right thing to do and in line with the Information Commissioner's Office's guidance on defaults.

The issue is whether NatWest should have removed the default when it became aware of the annulment, and I think it should have.

When a bankruptcy is annulled it's like it never happened, Mr A is no longer insolvent and never was. The default was only applied because Mr A was insolvent.

Once NatWest was aware the bankruptcy had been annulled, I think it should have removed the default – the event that led to the default had, effectively, now never happened. Mr A had also paid the credit card off soon after the bankruptcy, there was no other reason for NatWest to default the card.

But there's some dispute about when NatWest knew about the annulment. Mr A says he told NatWest soon after it had been annulled. I've seen no evidence of this and NatWest has no record of knowing about the annulment prior to mid-2020.

I wouldn't expect NatWest to find out about the annulment unless Mr A told it. Although NatWest found the bankruptcy on a public record, annulments aren't recorded there unless it's specifically requested, and I can't see this was done.

I think the earliest NatWest knew about Mr A's bankruptcy annulment was mid-2020. This means I don't think NatWest made a mistake leaving the default on record from August 2015 to mid-2020.

But, NatWest was aware of the annulment in mid-2020 when Mr A complained. And NatWest should, I think, have removed the default by the time it responded to Mr A's complaint, on 22 June 2020.

Defaults remain on a credit file for six years, so Mr A's default would have been removed in August 2021. This means I think NatWest unfairly kept the default on Mr A's credit file between June 2020 and August 2021.

Mr A hasn't provided any evidence of losses he's incurred. I'm sure some lending may have been more expensive for Mr A whilst the default was recorded.

But I don't think I can consider any losses or distress before June 2020 – I don't think NatWest made a mistake in recording the default until this date.

And it's very likely that more recent lending was less and less affected by the default. Mr A had settled the default soon after it was applied, and it had been on file for almost five years by the time I think NatWest should have removed it.

And it seems Mr A was able to get some lending prior to June 2020. If Mr A repaid this lending this would also have helped his ability to get credit going forward.

I think the default had a limited impact on Mr A's credit file after June 2020.

Mr A clearly explained to NatWest why the default should be removed, and he was, I think, correct. Mr A contacted NatWest several times to try and get the default removed, but NatWest didn't change its mind.

This was bound to be very frustrating for Mr A as well as time consuming. And Mr A then had the worry of the default being on file for a further year when it should have been removed. I'm sure this made Mr A wary of applying for credit and at a time he'd specifically checked his credit to make sure it was good.

Because of this I think NatWest should pay Mr A £250 to compensate for not removing the default when Mr A approached NatWest in mid-2020.

Mr A says NatWest shared his brother's data with him and this is a data breach. If NatWest did share someone else's data with Mr A then he's right, it's likely to be a data breach. But I have to look at the impact this has had on Mr A.

And I don't believe it has had an impact. The person impacted by the data breach is Mr A's brother, not Mr A. I don't think I can compensate Mr A for an error made by NatWest where he's not experienced a loss or been impacted by it.

NatWest previously sent Mr A a cheque for £50 to compensate for some poor service around the time he logged his complaint. This seems a fair amount to pay to Mr A for that episode of poor service.

Mr A says he didn't cash the cheque and I think it's likely to be more than six months old now. Mr A might find it difficult to pay in a cheque that's older than six months.

In the circumstances I think NatWest should cancel the cheque, if it hasn't already been paid, and pay Mr A a total of £300 in compensation.

The responses to my provisional decision

NatWest responded to my provisional decision and said it wasn't aware Mr A's bankruptcy had been annulled. NatWest didn't agree with my provisional decision.

Mr A didn't respond.

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've considered what NatWest said about not knowing of Mr A's bankruptcy annulment. NatWest has sent me some correspondence between internal departments, and I believe it

didn't have proof of the annulment.

But I've also looked at what Mr A said when he complained to NatWest. Mr A explained his bankruptcy had been annulled and wanted the default removed. NatWest responded to this complaint without asking for any proof of the annulment.

It seems unfair of NatWest to say it didn't know when it should have asked. Mr A made it clear his bankruptcy had been annulled. And if NatWest failed to investigate Mr A's complaint properly, I don't think that's fair to now hold this against him.

As part of the investigation into Mr A's complaint I think it's reasonable to think NatWest should have asked for any proof Mr A had. And I'm persuaded Mr A had a copy of the annulment in mid-2020. I also think had Mr A been asked to send it he would have.

I think NatWest should have been aware of Mr A's bankruptcy annulment by the time it issued its final response on 22 June 2020. So it follows my decision hasn't changed.

Putting things right

I think NatWest should pay Mr A a further £250. Mr A was offered £50 at the time the final response was issued, I think it's fair NatWest pays this amount too, if it hasn't already paid it.

My final decision

My final decision is National Westminster Bank Plc should pay Mr A a total of £300 to compensate him for the distress and inconvenience he's been caused. If NatWest has already paid Mr A the £50 offer made in its final response it can subtract this amount from the £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 April 2022.

Chris Russ

Ombudsman