



The complaint

Ms M complains about systemic racism at National Westminster Bank plc. She's unhappy that the bank included her broker's ethnicity on her mortgage application, and says this is evidence of discrimination and unfair treatment.

What happened

Ms M took out a buy-to-let mortgage with NatWest in 2008. She didn't maintain the mortgage payments, so in 2010 NatWest began legal action to repossess the property. Ms M later moved into the property, but NatWest ultimately took it into possession and sold it.

Ms M complained to NatWest and also to the Financial Ombudsman about the sale of the mortgage and NatWest's treatment of her in recovering the mortgage debt. An Ombudsman here issued a final decision about that in 2016.

Ms M subsequently made a subject access request to NatWest, and received a copy of her completed mortgage application and NatWest's accompanying notes. Those notes said Ms M's application had been made by her 'Asian broker'.

Ms M complained. She said this is evidence of systemic racism at NatWest, and shows that her mortgage was mis-sold. She said she was a young black woman on maternity leave in 2008, and NatWest took advantage of her and discriminated against her.

NatWest said Ms M had already had its responses to her complaints and it wouldn't enter into further discussion. It set out what it was doing to tackle inequality.

Our Investigator found the Financial Ombudsman had already made a decision about the sale of Ms M's mortgage in 2016, and said we wouldn't reconsider a complaint about the sale now. She said we could look into Ms M's complaint about what NatWest had put on her application, as that was a new issue which had only recently come to light. She concluded that the broker's race was irrelevant, but she didn't think that including it on Ms M's application meant Ms M had been sold the wrong mortgage.

Ms M didn't accept that and asked for a review. She didn't accept that racism had nothing to do with the mortgage she was sold and NatWest's later treatment of her, and she felt her complaint had simply been dismissed without proper consideration.

My provisional decision

The complaint came to me to decide, and I issued a provisional decision. I said:

I recognise that Ms M wants answers, and to know why NatWest's staff member included her broker's ethnicity in its records. NatWest hasn't been able to answer that question. It has, however, told us that the staff member concerned no longer works for it, and it hasn't received any other allegations of discrimination against that particular individual.

The Financial Ombudsman isn't a court, so we can't require the staff member to give evidence or cross-examine him, for example. This means I can't give Ms M the answers she wants. However, I can still make findings about this complaint and decide a fair and reasonable outcome.

I think the inclusion of the broker's ethnicity on NatWest's notes was unnecessary, irrelevant and discriminatory. It doesn't necessarily follow, though, that Ms M was sold the mortgage she was or the wrong mortgage as a result of that particular piece of information having been included in her application.

NatWest has said its records show that Ms M's mortgage application was assessed in line with its usual process. I've looked at its notes as a whole, and I can see that the underwriter gave detailed consideration to Ms M's application and the risks it presented. He gave reasons for his decision to grant the application, and those reasons appear to be based on the sorts of factors I'd expect to be taken into account in this type of lending decision.

Taken as a whole, while including a note of the broker's ethnicity was inappropriate and unnecessary, I find no evidence that it was a factor in the lending decision that was made. So, while this is new evidence that wasn't available to Ms M when we decided her previous complaint about the sale of her mortgage, I don't think it changes the overall conclusion the Ombudsman reached in 2016 that the mortgage wasn't mis-sold.

However, I think that what NatWest put in its notes about the broker has caused Ms M to question its treatment of her in the light of her own ethnicity, and I can see that she has found this upsetting. I think she has been caused avoidable distress, and that she should fairly receive an apology and some compensation from NatWest.

In all the circumstances, I consider £200 a fair award. Ms M would like a resolution to her complaint to go further than that, but there are limits to the Financial Ombudsman's powers: I can't, for example, require NatWest to change its policies or discipline or re-train its staff. We're a dispute resolution service, not a regulator or a court. I would nevertheless expect NatWest to learn from the complaints it receives and the Ombudsman decisions it receives, and I hope Ms M will find some reassurance in that.

I propose to require National Westminster Bank plc to send Ms M a written apology for including her broker's ethnicity on her mortgage application, and to pay her £200 by way of compensation.

Responses to my provisional decision

NatWest accepted my provisional decision, but Ms M did not. She still felt the mortgage had been mis-sold, NatWest hadn't provided appropriate support when she was in financial difficulty, and £200 and a letter of apology were nothing like enough.

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 given careful consideration to what Ms M has said in response to my provisional decision, but her comments haven't changed my mind about what I consider to be a fair outcome to this complaint.

To be clear, I haven't taken a view on whether NatWest is doing enough to tackle inequality. That is not a decision for me to make; my remit is to decide individual complaints on their particular merits – as I've done here.

Ms M says she still thinks 'Asian broker' on her application meant NatWest lent to her when it wouldn't otherwise have done, and without doing proper checks. But I find no other evidence to support that, and I'm not persuaded that the inclusion of this information was a factor either in NatWest's decision to lend to Ms M on the basis it did or in its treatment of her when she was in financial difficulty. Ms M has also already seen a copy of NatWest's notes in respect of her application.

I recognise that Ms M expects to receive more compensation than the £200 I am awarding here. The awards the Financial Ombudsman makes are to reflect the impact of a financial business's failings. Given my finding that what NatWest put on its records didn't affect its decision to lend to Ms M, I can't fairly award compensation for the subsequent homelessness and illnesses for which Ms M considers it should be responsible.

I remain of the view that the broker's ethnicity shouldn't have been put on Ms M's application, and that the fact it was has caused Ms M avoidable distress. However, while I know this isn't the outcome Ms M wants, I also remain of the view that £200 is a fair and reasonable award of compensation in all the circumstances.

I confirm my provisional decision.

My final decision

My final decision is that National Westminster Bank plc should pay Ms M £200 compensation, and send her a written apology for including her broker's ethnicity on her mortgage application.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 13 June 2022.

Janet Millington
Ombudsman