

The complaint

Ms B complains about the actions of National Westminster Bank Plc regarding the settlement of business debts and reviews of the bank's lending. Ms B brings the complaint behalf of herself and the estate of her late partner, Mr A.

What happened

Ms B and Mr A were business and domestic partners. In 2010, Mr A sadly died and was declared bankrupt. Ms B faced large potential liabilities, but the level of debt was then affected by two reviews which NatWest conducted of its past business – first a review of sales of interest rate hedging products (IRHPs) and later a review of accounts managed by the bank's Global Restructuring Group (GRG).

In 2015, during the GRG review, Ms B made a payment of £75,000 to NatWest, after the parties reached an agreement in principle on settling the outstanding debt. In 2019, the bank returned that sum to Ms B on her request, while the GRG review was still in progress.

In 2021, the bank offered redress of just over £5,600 plus interest as the final outcome of the GRG review. Ms B accepted the offer in full and final settlement, and the bank paid the redress to Ms B.

The bank then reopened discussions about settlement of the debt. In the autumn of 2021, it offered to accept a payment of £5,000 to settle the outstanding debt.

Ms B complains that NatWest should pay 8% interest on the money paid to the bank in 2015 and returned in 2019. She also wishes the bank to help pay her legal costs in order for the parties to reach a watertight full and final settlement.

Ms B also complains that NatWest sent her a letter in June 2021 which was drafted in a way that made her concerned that the bank was pursuing an outstanding debt of over £1.5m.

Our investigator looked in detail at the evidence and concluded that the bank didn't need to take any further action. In summary, he gave these reasons:

- He would expect the bank to pay compensatory interest when a customer has been deprived of funds as a result of the bank acting incorrectly, but this wasn't the situation here. The debt was still outstanding after completion of the IRHP and GRG reviews. Later the bank had taken a commercial decision to consider settling at a lower level, but the complainants hadn't been deprived of the monies as a result of the bank acting incorrectly.
- There was no documentary evidence of any agreement that NatWest would pay interest on the sum lodged with the bank from 2015 to 2019. Ms B said a bank representative had agreed in a phone call in 2019 that interest would be paid. However, the bank was unable to locate any recording of such a call.

- The figure of £1.5m was in the bank's formal demand letter in 2010, but the figure wasn't repeated in the June 2021 letter. The June 2021 letter noted that the parties had since discussed the amount of £75,000 as a settlement of the debt.
- The investigator didn't think it would be fair to require the bank to pay the complainant's legal costs for any further discussions of the settlement offer.

Ms B didn't agree with the investigator's conclusions. She said the final outcome of the GRG review upheld a number of areas of her complaint and reduced her liability.

Mrs B also said that bank's repeated references in 2021 to its August 2010 demand was genuinely alarming.

The complaint has therefore 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 that, I'm sorry to tell Ms B that I've come to the same conclusions as the investigator and for largely the same reasons.

Interest on the £75,000 payment

The investigator was correct in saying that we might consider compensatory interest to be due if the customer had been unfairly deprived of funds for a period. I therefore need to decide whether or not the complainants' funds were tied up in paying a debt that was later determined, by the GRG review, to be lower than £75,000. In other words, the question is this: did a debt of at least £75,000 still exist after the GRG review?

I've looked carefully at the documents from the GRG review and I'm satisfied that the review outcome didn't reduce the complainant's liability to a figure lower than £75,000. Ms B is correct that a number of the complaint points were upheld in the final outcome of the review, but the review outcome did not reduce the debt below £75,000. It follows that the complainants weren't deprived of funds unfairly by the bank holding the £75,000 between 2015 and 2019, and therefore I can't reasonably say that compensatory interest is due.

I realise that NatWest later offered to accept £5,000 to settle the debt, but this was a commercial decision taken by the bank and isn't an indication of the size of the debt. It wouldn't be fair to treat the bank's forgiveness of debt as meaning that the liability didn't previously exist.

There are no bank records indicating that a representative suggested that compensatory interest would be paid. But even if the representative had said that interest may be due, I don't think I could reasonably require the bank to pay interest in the circumstances of this complaint. Compensatory interest could only be due if the bank had unfairly deprived the customer of the £75,000, which didn't happen in this case.

The sum sought by the bank after the GRG review

In NatWest's communications from June 2021 onwards, there was no mention of the bank seeking a figure of £1.5m. Rather, the initial letter said the bank would contact Ms B "*with a view to discuss how we might move forward with the settlement of your liabilities, noting that*

you have previously discussed the amount of £75,000 as a full and final settlement with the bank.”

It's clear from this and from other correspondence that the bank was seeking to discuss settling for a figure with which Ms B was already familiar. There were further discussions, and four months later the settlement offer was reduced to £5,000. I can understand that Ms B would have been anxious about the figure that the bank would accept, but I'm satisfied that the bank didn't do anything to give the impression it was now seeking £1.5m.

Legal assistance

I also agree with the investigator that it wouldn't be fair or reasonable to require the bank to fund legal assistance for Ms B to continue negotiating about the settlement of the debt.

In conclusion

I know my decision will come as a disappointment to Ms B, and I understand the depth of her feelings about these matters, but I don't find that the bank has acted unfairly or unreasonably in respect of this complaint.

I've asked the bank about the current status of its offer. In reply it said that it is presently seeking to recover only £5,000 to bring this matter to a close, but the customer has not accepted the settlement yet. Ms B should contact NatWest directly if she wishes to accept the bank's offer.

My final decision

My final decision is that I don't require National Westminster Bank Plc to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and the estate of Mr A to accept or reject my decision before 21 November 2022.

Colin Brown
Ombudsman