

The complaint

Mrs O and Mr S complain that National Westminster Bank Plc (NatWest) have wrongly declined their mortgage application. They have incurred an early repayment charge (ERC) as a result of having to move their mortgage to another lender.

What happened

Mrs O and Mr S had a mortgage with NatWest and they wanted to move to a new house. They applied for a payment deferral during the pandemic and this was approved by NatWest for three months initially, April to June 2020 then again from July to September 2020.

Once they found a property they wanted to purchase, they made an offer which was accepted. They said they wanted to borrow additional money for the house purchase and NatWest provided them with an agreement in principle (AIP). They said they contacted NatWest in December 2020 and were told that they were not able to borrow any further funds. They complained to NatWest who upheld their complaint. NatWest said they incorrectly applied a debt marker on the mortgage. They apologised and arranged for this marker to be removed.

Mrs O and Mr S contacted NatWest again to continue with the application and were told they could only borrow £72,000. Their mortgage was around £165,000, so Mrs O and Mr S couldn't understand this. They said the adviser at NatWest found the AIP they had completed, overruled the system and asked for a mortgage adviser to give them a call.

Mrs O and Mr S said they spoke to someone over the phone in January 2021 and they believed they were completing a mortgage application. They were told that the next stage would be for NatWest to conduct a credit search, which they thought was a 'hard' credit search and not a 'soft' search which was done at AIP stage. Mrs O and Mr S' application was declined.

Mrs O and Mr S think they were wrongly declined the mortgage due to a failure in NatWest's system. They said they applied to another lender and within two weeks, they had a mortgage offer. They said they were notified when a 'hard' credit search had been carried out, but they didn't get this notification with NatWest. So, they think that something has gone wrong.

They brought their complaint to our service where it was looked at by one of our investigators. Our investigator didn't uphold the complaint. She looked further into what had happened and explained to Mrs O and Mr S that only a 'soft' credit search had been conducted and that the application got declined initially at affordability stage. She said that a full mortgage application hadn't been conducted. She said the previous marker which was on the mortgage account had been removed so didn't feel that NatWest had done anything wrong.

Our investigator also said that NatWest had concerns around how the payment deferral was used when it had been applied, as it didn't appear that Mrs O and Mr S were in financial difficulty and that they were saving the money instead of paying it towards their mortgage. She believes this could have had an impact on NatWest's decision.

Mrs O and Mr S disagreed. They said that NatWest have changed their response which is unacceptable. The telephone call they had with the adviser was for a full mortgage application.

They said they were told they passed affordability and based on what they were proposing to do, their monthly outgoings would have been far less than they were already paying with NatWest. They were going to pay off a loan during their house move, which they have done since taking out the new mortgage with another lender, and the new mortgage would cost less than what they were paying to NatWest for the mortgage and the loan.

Mrs O and Mr S question why NatWest felt the payment deferral wasn't required and that it shouldn't matter if other debt reduced. They made a decision and their decision was to take a payment deferral on the mortgage and said that NatWest didn't make them aware of the consequences of taking the payment deferral. Overall, they disagree that their application would have declined. They are adamant that a full application had been completed which they were told they failed at credit score and they believe something has gone wrong.

As they disagreed, they asked for the complaint to be reviewed by an ombudsman, so it was passed to me to decide.

My provisional decision

I issued a provisional decision on 24 June 2022. I said:

I've considered the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mrs O and Mr S have made very detailed submissions and provided a lot of information as to why they believe their complaint should be upheld. I will not comment on every point that Mrs O and Mr S have made, but I want to reassure them that I have considered everything they have told us when issuing my decision.

The crux of the matter here is that NatWest declined Mrs O and Mr S' mortgage application which meant that Mrs O and Mr S had to move to another lender, which meant they paid an ERC. There is also quite a lot of concern surrounding the credit score and whether a full "hard" search or a soft search had been conducted. Mrs O and Mr S believe that they had in fact completed a full mortgage application in January 2021 where they were told they passed the affordability checks, and NatWest told them they would then proceed to a full credit search.

The full credit search isn't showing on Mrs O and Mr S' credit history and it's since transpired that NatWest didn't carry out a full search, but only a soft search at the initial stages prior to an application being made. NatWest have said that the application declined at this stage, so they didn't proceed any further. NatWest said that when the toolkit was carried out which doesn't involve a hard credit search, they were unable to agree the application based on affordability. A toolkit is a system that NatWest uses to capture information such as personal information, income and so forth. NatWest said they would not proceed to application if it fails at that stage.

This is different to what NatWest said in their final response letter as they said the application was declined at a hard credit score stage. So, I do understand why Mrs O and Mr S have concerns, and why they believe that something has gone wrong with NatWest's internal system.

I haven't seen any evidence that shows a full application was made or that a full credit score had been conducted. NatWest did provide evidence which states "full" against credit search completed but they have now confirmed this is in relation to a full toolkit search being conducted and not a full credit search. The fact that one isn't showing on Mrs O or Mr S' credit history suggests it's likely one wasn't carried out.

Mrs O and Mr S have said that they spent a considerable amount of time with an adviser in January 2021 where they strongly believe a full mortgage application had been carried out. They said an affordability assessment was completed and it was confirmed by the adviser that they had passed affordability. Mrs O and Mr S said

their credit score is immaculate and they think it would be highly unlikely they would have been rejected on this basis, so believe there is something else wrong with NatWest's internal systems.

We have asked NatWest for a copy of the call recording from January 2021 so that we can establish exactly what was discussed with Mrs O and Mr S. Unfortunately, after several requests, NatWest are not able to locate this telephone call. They are unable to obtain details of the 'toolkit' which is basically the initial stages of enquiry, affordability and a soft credit search. NatWest have told us that a full mortgage application was never completed, and they are not able to provide any information to support this – but Mrs O and Mr S believe they did complete an application. As I've already mentioned, I haven't seen any evidence that a full application had been completed.

From the information provided by NatWest, it seems that they had some concerns with the payment deferral that Mrs O and Mr S were granted. NatWest provided us with information showing that a payment deferral was granted to Mrs O and Mr S and notes they provided to us shows the concerns they raised.

Payment deferrals were granted to borrowers initially for a three-month period, later to be increased to a total of six months, where borrowers experienced or thought they would experience financial difficulties during the pandemic. The guidance set out by the Financial Conduct Authority (FCA) at the time of the pandemic stated that where a consumer is experiencing or is reasonably expected to experience difficulties making their mortgage payments, a lender is expected to grant a consumer a payment deferral. Payment deferrals should be granted without the need to make detailed enquires so should be very light touch. Mrs O and Mr S did tell us their salaries did decline, and Mrs O was placed on furlough and during those uncertain times, they didn't know what the future might hold for them.

NatWest told us they were concerned because Mrs O and Mr S took a payment deferral because they were financially impacted by the pandemic, but they could see that Mrs O and Mr S saved large amounts of money into another account and paid other debts instead of paying their mortgage.

Mrs O was furloughed, and Mr S said his income had reduced and this is the reason they applied for a payment deferral. They applied for six months which was granted. Mrs O and Mr S wouldn't have known at the time of the pandemic and at the time they applied for a payment deferral how the pandemic would have affected them. I accept they may not have been in financial difficulties at the time as they initially thought they might be, but I don't think it's unreasonable that other debts decreased as they were trying to possibly mitigate other issues coming up. Mrs O and Mr S had the right to apply for a payment deferral if they thought they needed one. However, NatWest haven't said this is the reason for the declined mortgage application, but they did say they were concerned about this. The FCA guidance said that lenders should not report a worsening status or the payment deferral on a consumer's credit file. I can't see that NatWest did this. However, some of the information given by NatWest on the reasons for the declined application are not clear.

At first, they told Mrs O and Mr S that their application was declined at full credit score, then they told us that it was only a soft search that was carried out and the application declined at their initial toolkit stage.

We asked NatWest for more information to try and understand specifically why Mrs O and Mr S's application or initial enquires were declined.

NatWest referred us to the letter they sent Mrs O and Mr S where they told them their application failed their credit assessment criteria. They said part of this process involves the use of a credit scoring system which involves the use of credit reference

searches and the sharing of data with other lenders or agencies where appropriate. But NatWest have told us that a full search wasn't carried out and there is no evidence of one being completed.

NatWest have since told us that they have reviewed the toolkit data and this indicates that the decline does not appear to be an affordability issue, and I think they mentioned before that it possibly could have been. So they have told us again that the application declined at credit score stage.

I understand that NatWest will have their own internal credit scoring system but it's very unclear at this stage why Mrs O and Mr S's application was declined. Lenders are entitled to make their own lending decisions, but we need to ensure that they have made any commercial judgement legitimately. My concern is that some weight has been put on the payment deferrals which I don't think is reasonable.

Mrs O and Mr S were also able to obtain a mortgage with another lender almost immediately which also adds weight to the fact that Mrs O and Mr S's credit status wasn't an issue.

Having considered everything very carefully, I am minded to uphold this complaint and ask NatWest to refund the ERC that Mrs O and Mr S paid, along with any product fees that they may have paid with the new lender. In addition to this, as Mrs O and Mr S have taken out a new mortgage with another lender, the new interest rate will also need to be considered. So I would ask that Mrs O and Mr S send us a copy of their mortgage offer so that we can think about how the interest rate would impact any award given. If the interest rate with the new lender is lower than it was with NatWest, this saving would need to be deducted from any redress paid.

NatWest hasn't clearly explained why the mortgage application was declined and I think it's most likely declined because Mrs O and Mr S took a payment deferral. The FCA guidance says that payment deferrals should not impact credit files and even if this isn't the case, I think NatWest's knowledge of how the account was conducted after the payment deferral was granted and how Mrs O and Mr S reduced some other debts, doesn't seem to be within the spirit of that guidance. Because of this, I think the mortgage application was declined unfairly.

My provisional decision

For the reasons given above, I intend to uphold this complaint and direct National Westminster Bank Plc to:

- Refund the ERC that Mrs O and Mr S have paid with 8% simple interest from the date the ERC was paid until date of settlement
- Pay Mrs O and Mr S £250 compensation for the trouble and upset they have been caused
- Refund any mortgage application costs that Mrs O and Mr S would have paid with the new lender less any costs they would have incurred with NatWest—evidence to be provided to NatWest
- Refund the difference in the interest rate if the interest rate with the new lender is higher – evidence to be provided by Mrs O and Mr S

If National Westminster Bank Plc deducts tax from any interest it pays to Mrs O and Mr S as above, it should provide Mrs O and Mr S with a tax deduction certificate, so they can reclaim the tax from the tax authorities if appropriate.

Developments

Mrs O and Mr S responded to the provisional decision and accepted what I had said. They also confirmed that their new mortgage had an interest rate of 2.08% and they believe this to be the same as NatWest's – so they said that this part of the offer won't need addressing. Mrs O and Mr S also confirmed they paid a mortgage fee of £999 for the new mortgage. They have provided evidenced of this.

NatWest also responded and accepted the provisional 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.

As NatWest and Mrs O and Mr S accepted the provisional decision, I see no reason to depart from it. However, Mrs O and Mr S have confirmed that the interest rate they took out with the new lender was the same as the one they had with NatWest. They said this part of the complaint didn't need addressing.

I have looked at the interest rate that Mrs O and Mr S were on with NatWest and I can see this was 2.08%. Having looked at the mortgage offer with the new lender, I can see that the interest rate is the same. I therefore won't be asking NatWest to refund the difference in the interest rate as addressed in my provisional decision. There are no other amendments to make in regard to this. All other aspects remain the same.

My final decision

For the reasons given above and in my provisional decision, I direct National Westminster Bank Plc to:

- Refund the ERC that Mrs O and Mr S have paid with 8% simple interest from the date the ERC was paid until date of settlement
- Pay Mrs O and Mr S £250 compensation for the trouble and upset they have been caused
- Refund any mortgage application costs that Mrs O and Mr S would have paid

with the new lender less any costs they would have incurred with NatWest—
evidence to be provided to NatWest

If National Westminster Bank Plc deducts tax from any interest it pays to Mrs O and Mr S as above, it should provide Mrs O and Mr S with a tax deduction certificate, so they can reclaim the tax from the tax authorities if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr S to accept or reject my decision before 16 August 2022.

Maria Drury
Ombudsman