

The complaint

Mr S says that National Westminster Bank Plc (“NatWest”) acted irresponsibly by allowing him to increase the limits on the overdrafts he had with it and continuing to apply charges to his accounts when he was in financial difficulty.

What happened

Mr S had four bank accounts with NatWest. NatWest have told us the overdrafts on the accounts were as follows:

Account number ending 6615

15 February 2017 overdraft limit of £2,000

Account number ending 7107

17 February 2017 overdraft limit of £1,000

Account number ending 7105

17 August – 29 August 2017 overdraft limit increases from £2,500 to £5,000

Account number ending 2522

1 September 2017 overdraft limit of £2,000

Total lending £10,000

Mr S complained to NatWest that it acted irresponsibly by providing him with the increases to his overdrafts when he had a gambling addiction and that it has left him in financial difficulty.

NatWest says all applications were correctly assessed for affordability using his declared income and it would’ve factored in additional borrowing including external lenders. It says at the time of the applications it had a strategy rule in place to identify gambling activity and Mr S’s applications did not meet the relevant gambling criteria to decline his overdraft increases.

Furthermore, NatWest says that as all fees and charges were applied correctly in line with the terms and conditions of the accounts it is unable to refund any of the charges or interest.

One of our adjudicators looked into Mr S’s concerns but thought NatWest’s checks went far enough and didn’t think there was enough in the statements to conclude the overdrafts weren’t sustainable.

Mr S disagreed and asked for an ombudsman’s decision. So the complaint came to me for a decision. I issued my provisional decision on 20 June 2022. In my provisional decision, I explained why I was proposing to uphold Mr S’s complaint. I invited both parties to let me have any further submissions before I reached a final decision.

NatWest made an offer to settle the complaint in-line with the recommendations outlined in my provisional decision but also agreed as a gesture of goodwill to wipe the remaining balance of two of Mr S's three active accounts after the amount of the refund had been applied. This would mean Mr S would be left with an outstanding overdraft balance on only one account. If Mr S accepted this offer NatWest has said that charges and interest will continue to be applied until a repayment plan is put in place.

Mr S did not want to accept this offer unless NatWest agreed to not charge any interest or fees on the balance of the remaining account.

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.

In my provisional decision I said that:

"We've set out our general approach to complaints about irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mr S's complaint.

NatWest needed to make sure that it didn't lend irresponsibly. In practice, what this means is NatWest needed to carry out proportionate checks to be able to understand whether Mr S would be able to repay what he was being lent before providing any credit to him. Our website sets out what we typically think about when deciding whether a lender's checks were proportionate.

Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship. But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty.

I've kept all of this in mind when thinking about whether NatWest did what it needed to before agreeing to Mr S's overdrafts and limit increases. Mr S was given what was an open-ended credit facility. So overall this means the checks NatWest carried out had to provide enough for it to be able to understand whether Mr S would be able to repay his overdrafts within a reasonable period of time.

NatWest says Mr S had initial overdrafts of £2,000 (account ending 6615) and £1,000 (account ending 7107) approved in February 2017. NatWest say all overdraft applications were fully credit scored taking into account information Mr S provided about his income and how Mr S had managed his accounts held with it, as well as information held by other lenders provided through credit reference checks. And based on this information NatWest was satisfied his score was high enough to provide him with the overdraft facilities and limits he requested.

I accept that Mr S's financial position may well have been worse than the credit check carried out showed or in any information he disclosed to NatWest at the time. And it is possible that further checks might have told NatWest this. But NatWest was reasonably entitled to rely on the credit check it carried out. And given there wasn't any adverse information shown on the credit check, and there was a healthy regular salary coming into one of his accounts and the net free funds result on its calculations showed a comfortable pass, initially I think NatWest's checks went far enough.

But we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly. So I've considered whether there were instances where NatWest didn't treat Mr S fairly and reasonably and having carefully looked at Mr S's statements for all of his accounts from February 2017 I think that it was clear from August 2017 that the borrowing was no longer sustainable and that Mr S was struggling financially and wasn't in a position to repay what he owed in a reasonable period of time let alone any further lending.

I say this because it is clear from the statements that Mr S was having difficulty managing his money. Mr S hadn't seen or maintained a credit balance for an extended period of time on accounts ending 6615 or 7107. While on account ending 7105 Mr S spent most months overdrawn only seeing a credit balance for a short period when his salary came in. NatWest's own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure.

NatWest say that the lending was affordable because the net funds he had free (1912 from August 2017) was a comfortable pass on the threshold it had in place at the time. But I can't see how net funds of £1,912 is enough to repay overall lending of up to £10,000 over a reasonable period of time.

So I think that Mr S's overdraft usage should have prompted NatWest to have realised that Mr S wasn't using his overdrafts as intended and shouldn't have continued offering them on the same terms and should not have offered further lending. In these circumstances, it ought to have been apparent that Mr S was at a significant risk of experiencing financial difficulty and so should have been treated with forbearance rather than being provided with further credit and having had even more interest, fees and charges added to his overdrafts.

As NatWest didn't react to Mr S's overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Mr S ended up paying additional interest, fees and charges on his overdrafts and this ended up exacerbating difficulties he already had in trying to clear them. So I currently think that NatWest didn't treat Mr S fairly and he lost out because of what NatWest did wrong. And this means that it should put things right.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr S's complaint for NatWest to put things right by:

- *Reworking all of Mr S's overdraft balances so that all interest, fees and charges applied to them from August 2017 onwards are removed.*

AND

- *If an outstanding balance remains on any of the overdraft once these adjustments have been made NatWest should contact Mr S to arrange a suitable repayment plan. If it considers it appropriate to record negative information on Mr S's credit file, NatWest should reflect what would have been recorded had it started the process of taking corrective action on the overdrafts from August 2017. NatWest can also reduce overdraft limits by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Mr S over their limit.*

OR

- *If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr S along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then NatWest should remove any adverse information from Mr S's credit file.*

† HM Revenue & Customs requires NatWest to take off tax from this interest. NatWest must give Mr S a certificate showing how much tax it has taken off if they ask for one."

As neither party has provided any further evidence and Mr S does not wish to accept NatWest's offer, I see no reason to depart from the conclusions set out in my provisional decision.

My final decision

For the reasons I've explained I uphold Mr S's complaint against National Westminster Bank Plc and direct it pays the fair compensation as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 15 September 2022.

Caroline Davies
Ombudsman