

## **The complaint**

Mr S complains about two charging orders applied to his domestic property by National Westminster Bank Plc and about the bank not providing reasonable assistance to get them removed.

## **What happened**

In September 2021, Mr S sought to re-mortgage his domestic property, but found that potential lenders declined to lend due to two existing charges on his property. Until this time, Mr S was unaware of these charges.

Mr S says that he spent considerable time trying to understand what had happened, phoning and emailing NatWest regularly without getting any answers. Eventually, in April 2022, he sought the help of our service. We contacted NatWest in May 2022 and lodged Mr S's complaint.

NatWest explained that the two charges had been placed on Mr S's property in 2019 pursuant to court orders in 2008 (interim) and 2009 (final). The court orders related to two debts which still remained outstanding, each of around £30,000. The debts had arisen from two fixed rate loans issued to Mr S in 2005, one related to his business, which I shall call H, and the other to him personally. Mr S said that H had stopped trading in 2005.

NatWest said that it had not pursued Mr S for H's debt since 2014. NatWest proposed a settlement that, if Mr S repaid his personal debt, it would cancel the debt relating to H, and remove both charges. It also apologised that it had provided a poor service in responding to Mr S's requests for information and paid him £400 in compensation.

Mr S says that he has no knowledge of ever taking out a personal loan with NatWest. He also says that he cannot recall ever being notified by NatWest of an application to court, and he does not believe he was ever afforded the opportunity to attend a court hearing. Mr S asked us to look into things further.

Our investigator considered Mr S's complaint but said that, in her view, on the basis of the evidence available, she didn't believe NatWest had done anything wrong in relation to the charges. She also said she thought the compensation offered by NatWest for the distress and inconvenience caused to Mr S by the poor service the bank had provided in responding to Mr S's enquiries was fair and reasonable in the circumstances, and in line with what our service would award.

Mr S didn't agree with this view so asked for an ombudsman's 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.

While I have read carefully the full correspondence between Mr S and NatWest and considered all the evidence submitted, I have focussed my decision on the matters which I consider central to this complaint. I have set out below separately my thoughts on the charges on Mr S's property and the process to resolve matters.

### *The charges on Mr S's property*

The two charges on Mr S's property relate to two outstanding loans. Given NatWest has offered to cancel the loan to Mr S's business upon repayment of the loan to Mr S personally, I have focussed my attention on the personal loan. It is also this loan that Mr S has most strongly denied knowing anything about.

Mr S has given several reasons why he thinks NatWest has made a mistake in relation to this personal loan. He has said:

- He closed his business account with NatWest in 2004 or 2005 and closed his personal account long before that; while NatWest say the loan was issued in 2005
- The sort code of the loan account statement provided by NatWest is from Manchester, which is not anywhere near the location of the two branches at which he banked
- NatWest took 11 months to find a statement, or to provide any evidence, in relation to this outstanding debt

In response, NatWest has provided the following evidence:

- An historical statement extract from Mr S's current account, which shows £20,000 being credited in 2005
- A list of transactions on Mr S's personal loan account, showing the opening outstanding liability including interest and fees, reducing with monthly repayments, and resulting in an outstanding debt of approximately £30,000 in November 2008
- A bank statement from August 2022 showing an outstanding loan balance of approximately £30,000, which had carried forward unchanged from August 2021
- Letters sent to Mr S, at the address both we and NatWest hold on file, by solicitors acting on behalf of NatWest between 2014 and 2021 to chase the outstanding debt, all referring to the court order of 2009

NatWest also explained that all flat rate loans were issued at the time from the same sort code registered in Manchester. And it has apologised for the long delays in providing Mr S with answers to his questions.

We asked NatWest for the loan agreement and for the documents submitted to the court in 2008 but, due to the passage of time, these were not available.

It is not for me to consider the process conducted by the court in 2008 and 2009 to assess the outstanding loans. However, given the resulting charging orders, I believe sufficient reliable evidence must have been provided to the court to validate these loans. Therefore, on the basis of this evidence, and on the documentation provided by NatWest, I believe it most likely that the loans were taken out by Mr S and that he remains liable for the outstanding debt. Therefore, I believe the charges on his property are legitimate.

I have considered whether NatWest has made reasonable efforts to keep Mr S informed of these outstanding loans. I note that NatWest has acknowledged that it ceased chasing Mr S for the debt relating to his business in 2014 – but NatWest has now offered to cancel this debt, subject to the personal loan being repaid. I also acknowledge that Mr S does not believe he has received any correspondence from NatWest or its solicitors in relation to the personal debt, but this is at odds with the letters supplied by NatWest's solicitors which are

correctly addressed. I cannot say for sure whether these letters were sent or received but I believe it most likely that they were sent, which means that I believe NatWest made reasonable efforts to keep Mr S informed of his outstanding liability.

NatWest could clearly have done more as it is not clear that it notified Mr S in 2014 that it was ceasing to chase him in relation to the business debt, or in 2019 that it was applying the charges to Mr S's property in accordance with the charging orders. It appears that NatWest could have done more to engage with Mr S over many years in relation to these outstanding loans.

However, I also note that no interest has accrued to these loans since 2008 and no fees or default charges have been applied, so the real value of these loans will have fallen over fifteen years. In addition, I note that NatWest has now offered to cancel one of the debts.

Since the involvement of our service, Mr S has made various offers to NatWest to settle matters and to enable the charges to be removed. However, given that I believe the debts are valid and the charges legitimate, any settlement agreement is a matter between Mr S and NatWest.

#### *The process to resolve matters*

NatWest has acknowledged and apologised for the poor service it has provided to Mr S in response to his many enquiries about the charges on his property. It took the bank far too long to explain why the charges were there and to provide information and evidence of the outstanding debts. Mr S says this had a major effect on his emotional and physical wellbeing, and not being able to remove the charges precluded him from re-mortgaging, which meant continuing to pay much higher interest rates than would otherwise be the case.

NatWest has paid Mr S £400 in compensation for its poor service.

In my view, given I believe the charges are legitimate, I do not hold NatWest responsible for Mr S's inability to re-mortgage. However, I do think the delays in providing information meant that Mr S remained unaware for longer than necessary about the debts, which precluded him from doing anything about them. I also acknowledge that the circumstances of this complaint relate to events from many years ago, so obtaining documentation would have taken some time – but I think it took far longer than necessary.

I am aware that NatWest has offered to write off one of the outstanding debts, worth approximately £30,000, upon payment of the other debt. I do not comment on this settlement offer as it is a matter for Mr S and NatWest to determine how the outstanding debts are settled. However, I do think it is important context for determining the fair amount of compensation in this case.

In the circumstances, I believe the £400 already paid by NatWest is fair.

I am aware that Mr S will not agree with this outcome. But, for the reasons set out above, I think the amount already paid by NatWest to Mr S is fair compensation in all the circumstances of this case for its delays in providing Mr S with the information and evidence he needed. It is for Mr S and NatWest to reach an agreement to settle the outstanding loans so the charges on Mr S's property can be removed.

#### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 April 2023.

Andy Wright  
**Ombudsman**