

## **The complaint**

A business, which I'll refer to as 'T', is unhappy that National Westminster Bank Plc ("NatWest") still consider one of the business partners who left the business to be jointly and severally liable for a Bounce Back Loan ("BBL") balance.

This complaint is brought to this service by the partner who left T, who I'll refer to as Mr K, and the partner who remained and who took over T on a sole trader basis, who I'll refer to as Miss L.

## **What happened**

Mr K and Miss L ran a business together, for which they had a NatWest business bank account in their joint names. In March 2014, Mr K and Miss L's business relationship ended, with Miss L continuing the business without Mr K on a sole trader basis.

In 2022, Mr K received a letter from a debt collection agency informing him that NatWest were seeking recovery of an outstanding BBL balance that he was liable for. Mr K discovered that the BBL had been taken out in relation to T in his and Miss L's joint names without his knowledge or consent. Mr K wasn't happy about this, so he raised a complaint.

NatWest responded to Mr K and explained that they had no record of Mr K being removed or requesting to be removed from T's business bank account. NatWest also explained that because the BBL had been applied for in relation to T's business bank account – which Mr K remained a jointly named party on – they didn't feel that they were acting unfairly by considering him to be jointly and severally liable for the BBL debt. Mr K wasn't satisfied with NatWest's response and wanted NatWest to transfer the BBL to Miss L's sole name. So, with Miss L's consent, he referred the complaint to this service.

One of our investigators looked at this complaint. They noted that there wasn't any dispute that Mr K hadn't been involved with T when Miss L applied for the BBL in relation to T's business bank account. So, they liaised with NatWest who agreed to transfer the BBL to Miss L's sole name so long as both Mr K and Miss L formally agreed for them to do so.

Our investigator felt NatWest's offer was fair. However, while Mr K formally agreed to transfer the BBL to Miss L's sole name, Miss L did not. And our investigator felt that any continuing disagreement should be considered a civil dispute between Mr K and Miss L – which it wouldn't be within the remit of this service to become involved in.

Mr K didn't agree with the view of this complaint put forwards by our investigator and felt that NatWest should be instructed by this service to transfer liability for the BBL to Miss L's sole name. So, the matter was escalated to an ombudsman for a final 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 so, I'd like to begin by confirming that this service isn't a regulatory body or a Court of Law and doesn't operate as such. This means that it isn't within my remit here to declare that NatWest have or haven't acted in a non-regulatory or unlawful way.

Instead, this service is an informal, impartial dispute resolution service. And while we do take relevant law and regulation into account when arriving at our decisions, our remit is focussed on determining whether we feel a fair or unfair outcome has occurred – from an impartial perspective, after taking all the circumstances and factors of a complaint into consideration.

It doesn't appear to be in dispute that Mr K hasn't been involved with T for several years. So, I can appreciate why he would feel it unfair that the BBL was able to be successfully applied for by Miss L without his knowledge or consent, and that NatWest presently hold him jointly and severally liable for the BBL balance – which relates to loan funds which he never received or had the benefit of.

Accordingly, I've considered whether NatWest have done anything wrong here, both in allowing the BBL to be successfully applied for by Miss L and in their holding Mr K liable for the outstanding balance.

When Mr K and Miss L's business relationship ended in 2014, when Mr K relinquished his interest in T, it was incumbent on Mr K to have ensured that he was removed from all T's business arrangements, including the jointly named NatWest business bank account.

Unfortunately, Mr K appears not to have done this. And NatWest have confirmed that they have no record of ever being told that Mr K wasn't involved with T or of receiving any request to remove Mr K from the joint bank account. And while Mr K has explained that he filled out a form at Miss L's request which he gave to Miss L and was told by Miss L would remove him from the business bank account, it appears that Miss L never progressed this matter with NatWest. And that Mr K didn't follow up or confirm this matter with NatWest himself.

As such, I don't feel that NatWest have acted unfairly by continuing to maintain Mr K as a joint account holder on the business bank account – because they've never been given any information by either Mr K or Miss L which should have given them cause to do otherwise.

Additionally, the terms of the NatWest joint named business bank account allow for loans such as a BBL to be applied for by one of the named account holders without the need for the second named account holder to provide their confirmation or consent. This meant that the terms of the business bank account allowed Miss L to apply for the BBL without the confirmation or consent of the other named account holder – Mr K.

And so, given the terms of the business bank account, and given that Mr K remained a named party on the account – for which, as explained above, I feel Mr K himself must bear the primary responsibility – I don't feel that NatWest acted unfairly by accepting and approving the jointly named BBL application received from Miss L as they did.

However, while I don't feel NatWest have done anything wrong by maintaining Mr K as a joint holder of the account or by allowing the BBL to be successfully applied for by Miss L without Mr K's consent, it does seem apparent that Mr K wasn't involved with T when Miss L applied for the BBL and so wasn't aware that a loan for which he was considered jointly liable for had been applied for and received by Miss L.

NatWest have also acknowledged this, and they've agreed to transfer the BBL to Miss L's sole name, thus absolving Mr K of any liability for the BBL, on the condition that both Mr K and Miss L formally agree to their doing so.

This seems fair to me, and I don't feel that NatWest should reasonably be instructed to remove Mr K from the BBL account with the formal consent of both Mr K and Miss L, given that I'm satisfied that NatWest haven't done anything wrong here and given that the reason that Mr K remained a named party on the business bank account was because of the combined failure of Mr K and Miss L to inform NatWest that Mr K was no longer a party to the business.

It's my understanding at present that Mr K has given his formal consent to transfer the BBL to Miss L's sole name, while Miss L has not. This means that NatWest haven't received the consent of both parties to make the change, and so haven't done so.

In this circumstance, while I can appreciate Mr K's frustration, I feel that any continuing disagreement between Miss L and himself is a civil dispute and isn't one that's within the remit of this service to get involved in. Instead, the remit of this service is to assess whether NatWest should be considered to have acted unfairly here. And, for the reasons explained above, I don't feel that NatWest have acted unfairly.

All of which means that, while I will be upholding this complaint in T's favour, I'll only be doing so to compel NatWest to honour the offer they made to Mr K and Miss L. Specifically, that NatWest must transfer the BBL to Miss L's sole name if they receive formal consent from both Mr K and Miss L to do so.

### **Putting things right**

NatWest must transfer the BBL to Miss L's sole name if they receive formal consent from both Mr K and Miss L to do so.

If consent to transfer the BBL is not received from both Mr K and Miss L, then NatWest are under no obligation to transfer the BBL, and I consider any continuing disagreement between Mr K and Miss L about that matter to be a civil dispute.

### **My final decision**

My final decision is that I uphold this complaint against National Westminster Bank Plc on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 17 August 2023.

Paul Cooper  
**Ombudsman**