

The complaint

Mr and Mrs C were partners in a business partnership, which I'll refer to as 'P'. They are unhappy that National Westminster Bank Plc ('NatWest') consider them personally liable for the Bounce Back Loan ('BBL') that they took for the benefit of P.

What happened

In June 2020, P successfully applied to NatWest for a £35,000 BBL and received the loan funds shortly thereafter. The terms of the BBL included that P would need to begin making payments towards the loan in July 2021. But P had ceased trading by that time and couldn't make the required payments. Mr and Mrs C weren't happy that NatWest continued to hold them personally liable to repay the BBL, meaning that they had to repay the loan even though P was no longer trading – especially as NatWest had on one occasion told them that this wouldn't be the case. So, they raised a complaint.

NatWest responded to Mr and Mrs C and confirmed that the terms of the BBL included that the members of P would be considered personally liable to repay the BBL if P's business was no longer trading – as was the case in this instance. And so, they didn't feel that they'd acted unfairly by pursuing Mr and Mrs C for the outstanding BBL balance as they had.

NatWest did acknowledge that, on one occasion, one of its staff members had incorrectly explained that Mr and Mrs C wouldn't be held personally responsible for the loan. NatWest apologised to Mr and Mrs C for this and offered to pay £25 as compensation for any trouble or inconvenience this provision of incorrect information may have caused. Mr and Mrs C weren't satisfied with NatWest's response, so they referred their complaint to this service.

One of our investigators looked at this complaint. But they felt that the response to Mr and Mrs C's complaint that NatWest had issued already represented a fair and reasonable resolution to what had happened. Mr and Mrs C remained dissatisfied, 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 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.

I also note that Mr and Mrs C have provided several submissions to this service regarding their complaint. I'd like to thank Mr and Mrs C for these submissions, and I hope they doesn't

consider it a discourtesy that I won't be responding in similar detail here. Instead, I've focussed on what I consider to be the key aspects of this complaint, in-line with this service's role as an informal dispute resolution service.

This means that if Mr and Mrs C note that I haven't addressed a specific point they've raised, it shouldn't be taken that I haven't considered that point – I can confirm that I've read and considered all the submissions provided by both Mr and Mrs C and NatWest. Rather, it should be taken that I have considered that point but that I don't feel it necessary to address it directly in this letter to arrive at what I consider to be a fair resolution to this complaint.

Mr and Mrs C have explained that they feel they weren't properly advised by NatWest that they could be held personally liable for a BBL if P, their business, wasn't able to pay the loan instalments. But the sale of the BBL wasn't conducted on an 'advised' basis, which means that NatWest didn't provide any formal advice to Mr and Mrs C as to whether they should apply for a BBL or not.

Instead, the sale of the BBL was conducted on a 'non-advised' basis, wherein NatWest provided Mr and Mrs C with information about the BBL, at which time it was then the responsibility of Mr and Mrs C to ensure they understood the nature of the BBL product and the terms of the loan agreement before committing to it. As such, while I accept that Mr and Mrs C may have been made aware of the possibility of taking a BBL by their NatWest relationship manager, it was then for them to ensure they understood the terms of the BBL – including the terms surrounding liability – before making the decision to apply for it.

Importantly, the terms of the BBL do include that Mr and Mrs C – as the business partners who comprised the business partnership of P – can be held personally liable for the balance of P's BBL in the event of P ceasing trading. And I'm satisfied that these terms were available for Mr and Mrs C to review before they agreed to the BBL on P's behalf.

Indeed, it's a feature of business partnerships that the partners of a business partnership can be held personally liable for the debts of their business partnership after that partnership has ceased trading. This is distinct from limited companies, where no such continuing personal liability exists. So, it was always going to be the case that Mr and Mrs C could be still held personally liable for the balance of P's BBL after P ceased trading.

Mr and Mrs C have explained that despite the non-advised status of the sale, they still feel that NatWest should have done more to explain the potential consequences of taking the BBL to them, especially given the tumultuous and stressful time surrounding the emergence of the Covid-19 pandemic in 2020, when the BBL application was made.

But the BBL scheme was set up by the UK Government as a direct response to the emergence of the Covid-19 pandemic. And because of this the scheme had a unique application process whereby loan providers such as NatWest weren't expected to conduct affordability checks and instead were expected to accept the self-declaration of an applicant that they did meet the criteria to be eligible to receive a BBL.

This unique application process was put in place because it was (correctly) anticipated that a large number of BBL's would be applied for in a very short period of time, and to therefore allow loan providers to process applications quickly so that applicant businesses received BBL funds without delay. And I feel that this further demonstrates that the onus was firmly on the applicant to ensure that they understood the nature of the BBL before applying for it.

I also note that P was seeking to increase its overdraft borrowing at the time the BBL was applied for and that the BBL funds were used to repay P's overdraft facility. This means that if P hadn't taken the BBL, it would still be being pursued by NatWest for its overdraft balance

– which Mr and Mrs C, as P's partners, would also still be considered personally liable to repay, and which would have accrued interest and charges at higher rates than the BBL.

So, regarding how NatWest administered P's BBL application and in how they consider Mr and Mrs C to be personally liable for the outstanding BBL debt, I'm satisfied that NatWest haven't acted unfairly – and so I won't be upholding these aspects of P's complaint.

Finally, NatWest have accepted that one of its staff members incorrectly indicated that Mr and Mrs C wouldn't be held personally liable for the BBL balance. I consider this provision of incorrect information to be separate to the other aspects of P's complaint discussed above. This is because I don't feel that this mistake made by NatWest's staff member does or should have any bearing on the liability of Mr and Mrs C for the outstanding BBL balance.

NatWest have apologised to Mr and Mrs C for the provision of incorrect information and offered to make a payment of £25 to P as compensation for any trouble or inconvenience the mistake may have caused. This seems reasonable to me – given that, as explained above, I'm satisfied that Mr and Mrs C should fairly be considered personally liable for the outstanding balance, regardless of whether a provision of incorrect information about this matter occurred or not – and I feel that £25 is a fair amount regarding the provision of the incorrect information and given that it isn't in regard to any other aspect of P's complaint.

As such, while I will be upholding this complaint in P's favour, I'll only be doing so to formally instruct NatWest to make the £25 compensation payment they've already agreed to make, should it be the case that P formally accept my decision here.

I realise this won't be the outcome that Mr and Mrs C were wanting here, but I trust they will understand, given what I've explained, why I've made the final decision that I have.

Putting things right

NatWest must make a payment of £25 to P.

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 P to accept or reject my decision before 29 June 2023.

Paul Cooper

Ombudsman