

DRN-4164125



**The complaint**

Mr M complains that National Westminster Bank Plc incorrectly set up an interest only mortgage, rather than a repayment mortgage. He said he only found out when NatWest contacted him in 2023 to tell him the term of his mortgage was due to end in February 2023.

## What happened

In 2003, Mr M took out a mortgage with NatWest for £100,000. Mr M said that he wanted a repayment mortgage but only found out in 2022 that NatWest had actually sold him an interest only mortgage and that the balance was due to be repaid in 2023.

I issued a provisional jurisdiction decision saying that we only had the power to consider events from 23 May 2016 unless NatWest consented to us considering the complaint. NatWest consented to us considering the complaint.

After considering the merits of the complaint, I proposed to uphold it. I issued a provisional decision. My findings, which form part of this complaint, were:

*I am satisfied that it is more likely than not that Mr M wanted a capital and interest repayment mortgage. I say this for a number of reasons:*

- *The application form states that Mr M wanted to borrow £90,000 on a repayment mortgage. The sections for interest only are blank.*
- *A “supplementary information sheet” says the repayment type is “C+I”, presumably capital and interest. It also includes calculations for “the monthly repayment required to repay the mortgage by capital & interest”.*
- *Mr M has been clear and consistent that he wanted (and believed he had) a repayment mortgage.*

*At some point the amount Mr M wanted to borrow changed from £90,000 to £100,000. A mortgage offer was issued saying that the repayment method was “investments”, it also said that the mortgage could be repaid by capital reductions. And when the payments were collected NatWest was not collecting interest only – it collected a payment towards the capital too. Mr M’s statements showed that the capital balance of the mortgage was reducing each month.*

*It seems that Mr M was sold a “foundation” mortgage. NatWest has explained that it was a flexible mortgage that allowed overpayments and drawdowns.*

*Looking at all of the evidence, I consider it is likely that Mr M wanted a repayment mortgage – that is reflected in all of the application paperwork. Bearing in mind the nature of the mortgage product I don’t consider that Mr M had any reason to think that the mortgage had not been set up in line with his wishes.*

*I consider it is more likely than not, that the mortgage was set up incorrectly by NatWest. It was collecting payments towards the capital each month. But the amounts it collected were not sufficient to clear the capital balance by the end of the term. I can see how this might make it difficult for Mr M to realise that there was a problem with his mortgage, despite being sent a statement each month. The capital balance was going down each month but not quickly enough. Bearing in mind how mortgages work, a consumer would not reasonably know that the payments being made towards the capital balance of the mortgage were insufficient.*

*I agree with the investigator that NatWest could have done more to tell Mr M that the mortgage was not on track to be repaid by the end of term.*

*The starting point for me is to put Mr M in the position that he would have been in but for NatWest's mistake. I consider if it had set up the payments correctly, Mr M would have paid the correct amount each month. I say this as Mr M made all of the payments NatWest requested and there is no evidence of any financial difficulty or arrears that would lead me to conclude that Mr M would not have paid the correct, higher amount. It follows that Mr M has suffered a financial loss because of NatWest's mistake.*

*Of course, Mr M has made "savings" by paying less than he should have towards the mortgage. But there is no evidence that those savings are easily realisable. It seems more likely that any savings were swallowed up by day to day expenditure.*

*I also accept that there will be a point where Mr M ought to have known there was a problem with the mortgage. I agree with the investigator that there is nothing in the information given to Mr M before January 2015 which would lead Mr M to think there was a problem. I agree it would be fair for NatWest to meet 100% of the underfunding from inception up until January 2015.*

*By January 2015, Mr M was more than half way through the mortgage. By this stage, I consider that Mr M had been given enough information to understand there might be a problem. In saying that, it was not straightforward and would require considering all of the information held been given. I accept that by January 2019, when he only had around four years left on the mortgage, he should have known that the payments he was making were not going to repay the full mortgage balance at the end of term.*

*Overall, I agree with the investigator that it would be fair for NatWest to meet half of the shortfall between January 2015 and January 2019. That reflects that it was NatWest's mistake that caused the problem and the problem was difficult to identify for a consumer. It should also adjust the interest for the whole period.*

*I accept that Mr M has been caused a great deal of distress and inconvenience by what happened. It came as a shock to him that his mortgage was not going to be repaid by the end of term as he expected. But the savings he's made over the term of the mortgage far exceed any award of compensation I would have made to reflect any distress and inconvenience this matter has caused to him.*

### **Putting things right**

*There are two ways that Mr M has lost out:*

- 1. The capital shortfall that arose because Mr M paid less than he should have towards the capital balance.*
- 2. Because the capital balance was higher than it should have been, Mr M has paid more interest than he otherwise would.*

*I agree with the investigator that, in all the circumstances, it would be fair for NatWest to meet 100% of the capital shortfall from the mortgage's inception until 1 January 2015 and 50% of the capital shortfall from 1 January 2015 until 1 January 2019. That reflects the individual circumstances of this case and the relative difficulty for Mr M to see there was a problem.*

*In respect of the interest, I do not consider it was fair for NatWest to benefit by collecting more interest than it should have because of its mistake. So it should adjust the interest from inception until the mortgage was repaid over the full term of the mortgage..*

*NatWest should rework the mortgage as if it had calculated the monthly payments so that the mortgage was repaid after 20 years. It should then:*

- *Pay Mr M 100% of the difference between the capital balance on 1 January 2015 and what the capital balance would have been had it collected the correct amount of payments towards the capital.*
- *From 1 January 2015 until 1 January 2019 calculate how much Mr M would have paid towards the capital had the payment been set correctly. Pay Mr M 50% of the difference between that amount and the amount he actually paid.*
- *Calculate the total amount of interest Mr M would have paid had the correct capital payments been collected over the whole term of the mortgage. Pay Mr M 100% of the difference between that amount and the interest he actually paid.*
- *As Mr M has repaid his mortgage, the financial loss is crystallised. NatWest should pay interest at 8% simple per year on the total amount above, from the date the mortgage was repaid until date of settlement, to reflect that Mr M has been deprived of that amount.*

Both Mr M and NatWest accepted my 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 both sides have accepted my provisional findings, as set out above I see no reason to change the decision I reached on my provisional decision.

### **My final decision**

My final decision is that National Westminster Bank Plc should rework the mortgage as if it had calculated the monthly payments so that the mortgage was repaid after 20 years. It should then:

- Pay Mr M 100% of the difference between the capital balance on 1 January 2015 and what the capital balance would have been had it collected the correct amount of payments towards the capital.
- From 1 January 2015 until 1 January 2019 calculate how much Mr M would have paid towards the capital had the payment been set correctly. Pay Mr M 50% of the difference between that amount and the amount he actually paid.
- Calculate the total amount of interest Mr M would have paid had the correct capital payments been collected over the whole term of the mortgage. Pay Mr M 100% of the difference between that amount and the interest he actually paid.
- As Mr M has repaid his mortgage, the financial loss is crystallised. NatWest should pay interest at 8% simple per year on the total amount above, from the date the mortgage was repaid until date of settlement, to reflect that Mr M has been deprived of that

amount. If NatWest considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 29 June 2023.

Ken Rose  
**Ombudsman**