

The complaint

A company, which I will refer to as N, complains that National Westminster Bank Plc is charging them the wrong interest rate on a fixed rate loan.

What happened

N's directors told us:

- In April 2022 they asked a broker to help them source funding to purchase a new property.
- The broker told them that NatWest was prepared to lend to N. In June 2022 it issued a Decision in Principle for a loan of £350,000 over 20 years, fixed at 5.49% for 60 months.
- In July 2022 a NatWest Relationship Manager (RM) visited them, and they signed loan paperwork in his presence. He promised to email copies of the documentation to them, but despite their many requests he did not do so.
- In October 2022, their solicitor told them that contracts had been exchanged and their purchase completed. NatWest's RM then told them that N's monthly payments would be £2,487.74.
- In January 2023, they noticed that NatWest had taken a payment of £3,105 from N's bank account. They immediately contacted both their broker and NatWest's RM, and were told that there had been an error in the setup of N's loan and the correct monthly payment was £3,105.89.
- Later in January 2023, they finally received the loan paperwork – which showed a fixed interest rate of 8.87%. They were never informed about that rate, and they had believed N's loan would have a fixed rate of 5.49%.

NatWest told us:

- This loan was taken out via a third-party broker, meaning that the bank has limited records.
- N's directors signed the loan agreement on 28 July 2022. The agreement explained that the interest rate on the loan would be "the Fixed Rate detailed in the latest Interest Fixing Schedule [(IFS)] issued to the Customer for the Fixed Rate Period ... unless otherwise agreed by the Bank and the Customer". The IFS rate is void if the loan is not drawn down by the expiry date.
- The bank does not hold a copy of the original IFS, and the customer has not supplied that either. However, a new IFS was issued on 27 September 2022 confirming a rate of 8.87% with an expiry in December. The monthly payments shown on the IFS were

£3,094.91. The RM's recollection is that the IFS was verbally communicated to the customer, and also provided in writing. The written document may have been supplied through the customer's broker, but NatWest cannot confirm that.

- There was a delay in the loan being drawn down, and the bank believes that delay was the result of legal work done by external solicitors. In any event, the loan was drawn down on 7 October 2022, after the expiry of any original IFS, meaning that the 27 September 2022 IFS with a rate of 8.87% was the correct and valid one.
- Unfortunately, there was an error on the bank's systems which resulted in the loan being set up incorrectly. N's payments for the first two months were lower than they should have been, but this has since been rectified and the loan realigned to adjust for the remaining term. The bank has offered N £300 to apologise for the inconvenience.

One of our investigators looked at this complaint, but did not recommend that NatWest increase its offer of compensation.

Our investigator said the bank's original loan offer had been valid for three months from the date the bank signed the agreement – which meant it was valid until 28 September 2022. The loan wasn't drawn down until October 2022, so he didn't think it was surprising that the interest rate on the loan had changed. Whilst neither party had been able to provide him with the original IFS, he accepted that it had expired by the time the loan was drawn down. Overall, he thought it was plausible that NatWest had provided updated interest rate information over the phone to N's broker. Given that the deal was arranged through a broker, he thought it was the broker's responsibility to fully explain the loan terms. Based on the evidence available to him, he wasn't able to say that all the information the bank had given to the broker was passed on to N's directors – but he didn't think NatWest was at fault for any issues with communication.

He also said that although he was satisfied NatWest had made an error with the repayment amounts in late 2022, the evidence also showed that N's directors had expected the monthly payment to be "about £3k". Overall, he thought NatWest had done enough to put that error right.

NatWest accepted our investigator's findings, but N's directors did not. They provided further comments, and specifically asked that the ombudsman consider the legal advice they had received.

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.

I consider that there are two related issues here: the first is the interest rate that should apply to N's loan, and the second is the amount of N's monthly payment. I have considered each of those issues in turn.

The interest rate

Neither party has been able to provide me with a single document setting out the agreed interest rate. That means I've had to look at the evidence that is available to determine what I think is most likely to have happened.

The loan agreement did not specify a rate; it merely said that the rate would be the one in the most recent IFS issued to the customer, or as otherwise agreed. I have only seen one IFS – the one that NatWest says was issued on 27 September 2022 showing a rate of 8.87% – but both parties accept that there was an earlier IFS showing a rate of 5.95%.

In a case like this one, involving a broker, I would normally expect to see very little communication between the bank and the borrower. Instead, I would expect to see the bank communicate primarily with the broker, and then the broker in turn to communicate with the borrower. It would not be at all surprising to me if changes in rates were passed on to a borrower by a broker rather than the bank.

I cannot be certain exactly what happened in this particular case. NatWest says its RM's recollection is that the new rate was communicated to the customer, but it has provided very little detail. N's directors' recollection is that nobody told them about the new rate at any point. I have not heard directly from N's broker, and I understand from N's directors that he has not been in contact with them since early 2023.

However, looking at the limited evidence I do have, I am satisfied that NatWest did not at any point promise to lend to N at a rate of 5.49%. The Decision in Principle made clear that it "does not represent a formal offer of facilities".

It is unfortunate that neither party can provide me with a copy of the original IFS, which I am told quoted a rate of 5.95%. However, I am satisfied that the original IFS had expired by the time the loan was drawn down. That means the rate of 5.95% was no longer available to N, and so it would not be fair for me to order NatWest to put N in the position it would have been in if the loan had gone ahead at a rate of 5.95%.

I am aware that there is a dispute about whether NatWest's 27 September 2022 IFS, with a rate of 8.87%, was "issued to the customer" in accordance with the terms of the loan agreement. But even if it was not, I think it is likely that the new rate was verbally communicated either to N's directors or to N's broker (in his capacity as N's agent). The RM's recollection is that the rate was verbally agreed, and in the circumstances I think that is likely.

The replacement IFS was not signed by N's directors, but there is nothing in the loan agreement, or in any other document available to me, which suggests that the directors' signature was necessary. That means N's directors' choices were to accept NatWest's offer of a loan at 8.87%, look elsewhere for financing, or abandon their property purchase altogether.

In late September 2022 I think it is very unlikely that N would have been able to arrange funding elsewhere at the sorts of rates that had been available in July of that year. The Bank of England had increased base rate on 4 August and 22 September 2022, and many market participants were expecting future interest rate rises. It is possible that N could have found a different lender offering a rate less than 8.87%, but they could not have done so instantly – and any change in lender is likely to have caused further delay. In any event the decision as to whether or not to look elsewhere was for N and its broker, and was not NatWest's responsibility.

I think it is likely that there was some discussion between N's directors and their broker about the new rate. I say that because one of the directors sent an email to their broker on 13 October 2022 (after the loan had been drawn down) to say:

“Can I please ask you to forward me the mortgage offer as I don’t seem to be able to find it? As far as we remember it was meant to be for 15 years and the monthly payments meant to be about £3k?”

I acknowledge that if the loan had been taken on a fixed rate of 5.95% over a term of 15 years, then the monthly payments would have been approximately £2,943 (or “about £3k”). However, none of the NatWest documentation that I have seen refers to a 15 year term. The loan agreement and the September 2022 IFS both mention a term of 240 months, or 20 years. The email NatWest’s RM sent on 13 October 2022 also said “It’s for 20 years & the monthly repayment is £2,487/month”. I therefore think it is much more likely that the discussion between N’s directors and their broker referred to a loan with a 20 year term. A loan at a rate of 5.95% with a 20 year term would have cost considerably less than £3,000 per month. But the actual rate of 8.87% would indeed have produced a monthly payment of “about £3k”.

In my view, the RM’s 13 October 2022 email was confusing. But it was sent after the loan had been drawn down, so I don’t think it is possible that the RM’s confusing email could have affected the directors’ decision to proceed with the loan.

Overall, I think the evidence suggests that the parties verbally agreed to go ahead with an interest rate of 8.87%.

The monthly payment

Everyone accepts that NatWest made some sort of error with N’s monthly payment, but there is a dispute about what that error was. N’s directors say that the original payment of £2,487.74 is the correct one, and that the later increase was a mistake. NatWest says that the monthly payment should have been £3,094.91 from outset, and that the only reason the payments are now slightly higher is to correct the underpayments made at the end of 2022.

I acknowledge that a monthly payment of £2,487, together with a loan balance of £350,000 and a term of 20 years, would have been broadly consistent with the 5.95% rate that both parties tell me was shown on the original IFS. That does suggest confusion on the RM’s part, and possibly on the part of other members of the bank’s staff. But I don’t think it is sufficient on its own to show that NatWest agreed to go ahead with a rate of 5.95%.

In light of the director’s 13 October 2022 email, I am satisfied that N’s directors were expecting a monthly payment of “about £3k”. I have considered their comments about that phrase, but I think it is very unlikely that the director used the words “about £3k” to refer to a payment of £2,487. I think it is much more likely that that amount would have been described as “about £2.5k” (or even “about £2k” if the director was rounding to one significant figure). I therefore consider that the directors expected a payment of “about £3k”, and agreed to proceed with the loan on that basis.

Given that I am satisfied the parties agreed to go ahead with an interest rate at 8.87%, it follows that I am satisfied that NatWest’s error here was to set the original payment too low. I am further satisfied that when it increased the payment – to a little more than it says the original payment should have been, to compensate for the underpayment – it was acting fairly. However, its error did cause inconvenience to N, and I think it is right that the bank should make a payment to apologise for that inconvenience.

Putting things right

NatWest has offered to pay £300 to resolve this complaint. I think that offer represents fair compensation for the inconvenience caused by NatWest's errors in respect of the monthly payment.

I acknowledge that N's directors consider that £300 is woefully inadequate given that N will be paying much higher rates than they say they expected. But on balance I think N agreed to a rate of 8.87%, so I don't think it would be fair for me to award compensation for the difference in payments between the higher and the lower rate.

My final decision

My final decision is that I order National Westminster Bank Plc to pay N £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask N to accept or reject my decision before 14 March 2024.

Laura Colman
Ombudsman