

The complaint

A company I'll call R complains about the manner in which National Westminster Bank PLC (NatWest) carried out a business profile review in respect of R.

R is represented by its director, Mr H.

What happened

On 11 November 2020, NatWest started a business profile review in respect of R's account, in order to understand more about the nature of R's business and its use of its NatWest account.

The review continued until January 2023, at which point NatWest confirmed it didn't require any further information. Mr H was unhappy at the way the review was conducted, so he complained to NatWest. It issued its final response to R's complaint on 9 August 2022, saying it was obliged to carry out the review in order to comply with its regulatory obligations and explained that it was necessary to complete the review in stages. It apologised for the inconvenience the review had caused, but said it was entitled to carry out the review, so it rejected R's complaint.

Mr H remained unhappy, so he brought his complaint to our service, saying NatWest was harassing him and lying to him. Our Investigator was satisfied NatWest was entitled to carry out the review, but she felt it had made mistakes along the way that had caused R inconvenience, so she said NatWest should pay R £250 in compensation to put things right.

NatWest accepted our Investigator's findings, but Mr H didn't so he asked for an Ombudsman to review the matter afresh.

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.

Firstly, I should say that I'm aware I've summarised the events of this complaint in far less detail than the parties, and that I've done so using my own words. The reason for this is that I've focussed on what I think are the key issues here, which our rules allow me to do.

This approach simply reflects the informal nature of our service as a free alternative to the courts. And I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome in this case. So, if there's something I've not mentioned, it isn't because I've ignored it, and I must stress that I've considered everything both Mr H and NatWest have said, before reaching my decision.

Banks in the UK are strictly regulated, and must take certain actions in order to meet their legal and regulatory obligations. As part of this, they are also required to carry out ongoing monitoring of new and existing relationships. That sometimes means – as in this case – that

a bank chooses to carry out a review of its customer's account and to raise various enquiries.

And I'm satisfied that NatWest was complying with its legal and regulatory obligations when it carried out the review, and that it didn't treat R unfairly in the questions it asked. NatWest's questions centred around R's nature of business and the use of its account, and I've seen no evidence of it asking questions it shouldn't have.

In response to our Investigator's outcome, Mr H said he didn't agree with her findings with regard to a phone call between him and NatWest on 9 December 2020. He said he had been specifically asked if he was involved in tax avoidance schemes in respect of his own personal income, and not that of R's. He felt that NatWest had acted outside of its remit in doing so.

Having listened to the call in question, I don't think NatWest asked any questions that it wasn't entitled to. The call handler asked various questions about R and Mr H's handling of R's business, such as its nature of business, what activities it was involved in, its turnover for the preceding 12 months and its tax activities. Mr H was asked to confirm that his accounts were prepared by a professional, and to confirm that he wasn't participating in any tax avoidance schemes, or was a resident outside of the UK for tax purposes.

While the questions asked during that call were almost exclusively specifically about R's actions, and not Mr H's, the call handler didn't expressly state whether he was asking about Mr H, R, or both, when he asked about tax activities. But I'm not persuaded NatWest's questions about tax were inappropriate. Mr H is of course a director of R and earlier in the call he had confirmed he was also a majority shareholder.

And while Mr H has suggested NatWest has acted outside of its remit here, I don't agree. And I'm satisfied that NatWest asking whether its customer (R) or its customer's director and majority shareholder were engaging in tax avoidance, is a perfectly legitimate question as part of a business profile review. So, I'm not persuaded NatWest treated R unfairly by asking the questions it did.

Turning to the review more generally, I accept there were times when NatWest caused R unnecessary inconvenience. While Mr H was unhappy at the piecemeal nature of NatWest's enquiries, that wasn't in itself an unreasonable approach for NatWest to take. Many of NatWest's follow-up questions arose because of answers Mr H had given to previous questions, and I don't think NatWest treated R unfairly by asking its review questions in stages.

With that being said, there were areas when NatWest let itself down. For example, it asked Mr H to confirm what the nature of R's business was on 3 separate occasions, which wasted time and meant Mr H had to repeat himself unnecessarily. Further difficulties were caused by the nature of NatWest's process, in that Mr H was asked to call NatWest to answer questions on several occasions, only to find that the person Mr H spoke to wasn't from the same team that had raised the questions in the first place.

That meant the call handlers couldn't clarify any ambiguities, for instance when Mr H queried an acronym he didn't recognise, the call handler couldn't say what that acronym stood for. And on another occasion Mr H was asked to provide details of various transactions on R's account, without being given dates or values of the transactions.

Mr H complained that he had to make 8 phone calls to NatWest over a period of 2 years, and I can see that some of those, such as those referred to above, were wasted.

Part of the reason Mr H continued to call NatWest was because of the wording NatWest used in its letters. At times NatWest said Mr H didn't need to call if he had answered in the preceding 5 days, but on occasions NatWest also said that it would need to block R's account if it didn't hear from Mr H. So, I understand why Mr H wanted to be cautious and ensure he had answered all outstanding questions.

Mr H had complained that those letters were threatening, but I don't accept that was NatWest's intention. And I can see that it explained that it didn't want to cause inconvenience by blocking R's account, but that it would have to do so in order to comply with its regulatory obligations. So, I'm satisfied it was explaining the process it had to follow, rather than threatening Mr H.

I understand why Mr H says he felt harassed, but based on the evidence both parties have submitted, I'm satisfied NatWest was simply seeking to comply with its legal and regulatory obligations and that it didn't intend to cause R or Mr H any harm. I accept that it made errors along the way that caused R inconvenience, but I've seen no evidence of a deliberate attempt to harass Mr H.

I can also see that Mr H wanted NatWest to answer a number of questions he raised about the review process. NatWest isn't obliged to answer those questions, so I won't compel it to do so, and in any event I can see that our Investigator forwarded those questions to NatWest and sent the responses to Mr H.

Given I accept NatWest made some errors during the review process, it's right that it should have to compensate R to put things right. However, I should first explain the basis on which I can award compensation in this case. Our service has the power to award compensation for distress and inconvenience to a bank's customer, if we think the bank has done something wrong or treated its customer unfairly.

But here NatWest's customer is R, not Mr H. So, I can't make an award in respect of any distress Mr H has experienced personally, because he is not NatWest's customer. And because R is a limited company, it cannot experience distress.

With that being the case, I've looked to assess the inconvenience NatWest caused R as the result of its mistakes. I can see that R's director's attention was unnecessarily diverted away from business activities on a number of occasions. And on that basis, and for the reasons I've set out above, I assess the appropriate compensation to be £250.

I appreciate Mr H experienced distress throughout the process, and I don't underestimate his strength of feeling in relation to this complaint. But I'm simply not able to make an award to recognise his personal distress.

My final decision

My final decision is that NatWest must pay R £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 23 April 2024.

Alex Brooke-Smith
Ombudsman