

## **The complaint**

A limited company, which I'll refer to as 'D', complains that National Westminster Bank Plc (NatWest) defaulted its accounts.

D's complaint is brought to this service by its director, whom I'll refer to as 'Mr T'.

## **What happened**

To briefly summarise: D held a Small Business Loan (SBL) and a Bounce Back Loan (BBL) with NatWest. D didn't make the contractually required payments for the SBL in November and December 2022, which meant that the SBL fell into arrears.

In January 2023, D didn't make its monthly SBL payment, meaning the SBL was now three months in arrears. Additionally, D also didn't make its BBL payment for that month, meaning that the BBL fell into arrears – although a system error meant these arrears weren't made clear to NatWest's agents who looked at D's accounts.

Also in January 2023, Mr T contacted NatWest and explained that he was going through a period of financial difficulty and that he wanted to discuss the arrears that had accrued on the SBL.

NatWest asked Mr T to complete an income and expenditure (I&E) form so that they could get a better understanding of his financial position and assess whether there was any further support they could provide. But NatWest didn't receive a completed I&E form from Mr T, and with the arrears in the SBL remaining unaddressed they issued formal demands for both the SBL and the BBL in February 2023.

Mr T complained to NatWest on D's behalf about the issuance of the formal demands. And NatWest upheld this complaint as they agreed that they hadn't made reasonable attempts to contact D about the unresolved SBL arrears before issuing the demands. NatWest therefore rescinded the formal demands and made a payment of £80 as compensation for the trouble D had incurred.

NatWest then conducted an I&E assessment with Mr T and agreed a payment plan which would clear D's accrued SBL arrears in ten months. NatWest then belatedly recognised that D's BBL was in arrears because of the missed January 2023 payment, and this caused them to mistakenly consider D's SBL payment plan to have been broken. A new payment plan was put in place for D, but a further error from NatWest caused this second plan to be deemed to be broken by them also.

Mr T complained to NatWest on D's behalf about their incorrect cancellation of the second payment plan. Further errors were then made by NatWest while they were investigating D's complaint that led to further inconvenience being incurred by D. NatWest responded to D's complaint in July 2023 and acknowledged and apologised for their mistakes. NatWest sent a cheque for £200 as compensation for their mistakes but noted that D's loans remained in arrears. As such, NatWest placed a two-week hold on D's accounts – so that Mr T could contact them during that time and come to a new repayment arrangement on D's arrears.

Mr T didn't contact NatWest within the two-weeks given for him to do so, and because of this NatWest moved D's accounts to its collections and recoveries department. NatWest then transferred D's accounts to a debt recovery agency (DRA) to act on their behalf.

Mr T wasn't happy about this and reiterated his complaint to NatWest. But NatWest confirmed that because Mr T hadn't arranged a repayment plan during the two-week hold given for him to do so, they didn't feel they'd acted unfairly by recommencing collections activities on D's accounts. Mr T wasn't satisfied with NatWest's response, so he referred D's complaint to this service.

One of our investigators looked at this complaint. But they felt that, while NatWest had made administrative errors, the apologies and compensation they'd already paid to D for these errors already fairly resolved that aspect of D's complaint. And they also felt that because of the outstanding arrears on D's loans, D hadn't acted unfairly by resuming collections activities on D's accounts as they had – following Mr T's failure to contact them within the two-week timeframe he'd been given. Mr T remained dissatisfied, so D's complaint 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.

I issued a provisional decision on this complaint on 19 February 2024 as follows:

*I feel that both Mr T, as director of D, and NatWest have made errors here. And I feel that the easiest way to discuss what's happened is to go through events in chronological order.*

*The account statements for D's SBL confirm that D didn't make the monthly payments that were contractually required of it on that loan for the four months, November 2022 through February 2023. And the account statements for D's BBL show that it didn't make the contractually required monthly payment for that loan for the month of January 2023. Mr T has explained that he experienced very difficult personal circumstances which, because he is the sole director for D, impacted D's ability to meet its contractual loan payment obligations.*

*It's only natural to sympathise with Mr T, given the difficulty of his personal circumstances as he's explained them. But while I would expect NatWest to take Mr T's personal circumstances into account, ultimately, the personal circumstances of a company's director don't in any way diminish the contractual responsibilities of that company.*

*In February 2023, because of the arrears on D's SBL, NatWest issued formal demands to D for full repayment of both its SBL and BBL. This seems reasonable to me, given the level of arrears present on the SBL. And while a similar level of arrears wasn't present on the BBL, upon which only one payment had been missed, the BBL agreement states that the defaulting of any other liability to NatWest (such as D's SBL) is considered to be an act of default on the BBL. This is more commonly known as 'cross-defaulting' and is a commonly included clause in loan agreements.*

*On 1 March 2023, Mr T called NatWest in response to formal demand notices sent out by NatWest and explained the personal difficulties he'd experienced and why these had impacted D's ability to stay up to date on its loan payments. However, NatWest's call notes explained that Mr T told NatWest that things were now back on track and that he was looking to bring D's loans up to date. NatWest explained to Mr T that because the formal demands*

*had been issued, full repayment of both loans was now required. Mr T wasn't happy about this, so he raised a complaint.*

*NatWest responded to Mr T's complaint the next day, on 2 March 2023, and upheld it on the basis that they accepted that they hadn't made reasonable attempts to contact D before issuing the formal demands. NatWest apologised for their mistake and made a compensation payment of £80. This seems reasonable to me. And the upholding of that complaint gave Mr T the opportunity to contact NatWest and make an arrears repayment arrangement with them on D's behalf.*

*Mr T did contact NatWest a few days later, on 7 March 2023, at which time NatWest's agent identified the SBL arrears of £2,782.76 but didn't identify the BBL arrears of £544.10. This was because, as NatWest would later confirm, a system error wasn't making D's BBL arrears apparent to their agents.*

*NatWest's notes confirm that a ten-month arrears repayment plan was agreed with Mr T, with the monthly instalments of £955 comprising D's contractual monthly SBL payment of £672.65, along with an arrears' repayment amount of £282.35 – which, over the course of ten months, would clear the SBL arrears of £2,782.76. And D's SBL account statements show that D made a payment of £955, in line with this agreed plan, on 13 March 2023.*

*However, while this plan addressed D's SBL arrears, the BBL arrears remained unaddressed. It's clear that NatWest made an error here, which while being explained by the system error described above isn't absolved by that system error. But at the same time, I feel that Mr T made a similar error – given it was Mr T's responsibility as the director of D to be aware of the present state of D's accounts, including that the BBL was in arrears. And given that a formal demand was issued to D for the BBL alongside the formal demand that was issued for the SBL.*

*As such, I consider both NatWest and Mr T to be responsible for the fact that the BBL arrears weren't addressed at this stage, given that both NatWest and D are responsible for being aware of the present state of D's loans.*

*It's clear that NatWest (presumably NatWest's system) considered the agreed payment arrangement to have broken almost immediately, because it didn't take into consideration the arrears that had accrued on the BBL – or more accurately, because D's BBL arrears remained unaddressed.*

*NatWest spoke with Mr T a few days later and explained to him that the plan was considered to have been broken because it had only addressed the SBL arrears with the BBL arrears remaining unaddressed. A replacement plan couldn't be arranged at that time, and so a seven-day hold was applied to D's loans to allow Mr T to call NatWest back. However, following this, Mr T didn't speak with NatWest for over a month, during which time D made its regular monthly payments towards both the BBL and SBL for April 2023 – but didn't make any additional payment to address the arrears present on those loans.*

*When Mr T did speak with NatWest again, which he did on 13 April 2023, he set up a new arrears' repayment plan with them. But once again, this new plan only considered D's SBL arrears, which now stood at £2,573.06, and didn't address D's BBL arrears. I can only conclude from this that the system issue that NatWest had previously identified clearly hadn't been resolved. But given that NatWest's notes clearly explained that the previous plan had broken because the BBL arrears hadn't been addressed, and that this had been explained to Mr T, I feel that both NatWest and Mr T should fairly share the responsibility for this mistake.*

*And this is because I feel that on this and the prior occasion, both NatWest and Mr T should*

*reasonably have been aware that D was in arrears on its BBL and that those arrears needed to be addressed.*

*The new payment plan agreed on 13 April 2023 was for twelve monthly payments of £890, which included D's contractual monthly payment amount of £672.65 along with a payment of £217.35 to clear the remaining SBL arrears over the twelve-month term. The first payment of this new plan was to be paid in a month's time, on 11 May 2023 – and Mr T made that first payment on that date for D. But again, because D's BBL arrears remained unaddressed, this new plan was considered broken by NatWest almost immediately after it had been set up.*

*On 18 May 2023, having received a notice that D's agreed payment plan had been broken, Mr T spoke with NatWest again. The issue of the unaddressed BBL arrears was explained once more, and NatWest explained that a new plan would need to be arranged. However, NatWest's agent on this call also noted that D's BBL arrears weren't showing correctly on their systems, which was why their agents had missed these arrears previously and explained that they would take action to correct this issue and would call Mr T back.*

*On this call, Mr T also explained that D's financial position was now improved and that he anticipated that no further loan payments would be missed. And Mr T also raised a complaint with NatWest because of the repeated cancellation of the arrears' repayment plans he was agreeing. This complaint would be formally responded to by NatWest on 10 July 2023.*

*On 2 June 2023, Mr T spoke with NatWest again and said that he was expecting a payment for D over the next few days that would allow him to clear D's outstanding BBL arrears of £544.10 in one lump sum. NatWest then put a seven day-hold, until 9 June 2023, on D's accounts to allow Mr T to call them back and make the payment to clear D's BBL arrears.*

*Mr T didn't call NatWest back within seven days and didn't clear D's BBL arrears as he'd promised to. It's difficult to consider anyone but Mr T to be responsible for this, even in consideration of any difficult personal circumstances he might have been experiencing. And because Mr T didn't call back as he'd agreed to do by 9 June, NatWest made the decision on 12 June to continue its arrears recoveries process with D.*

*Significantly, NatWest's agent didn't recognise that the formal demands that NatWest had issued to D in February 2023 had been rescinded – because of the complaint raised about those formal demands by Mr T in March 2023. As such, NatWest's agent incorrectly believed that there were active formal demands that had been issued against D, and on which the given deadlines for full repayment had now expired. Because of this, NatWest's agent moved D's accounts to its collections and recoveries department, which moved to default D's loans. And I'm satisfied that this was a clear error on the part of NatWest.*

*A few days after NatWest had passed D's accounts to its collections department, Mr T called NatWest to make the BBL arrears payment he'd promised. But NatWest's collections agent explained that D's accounts were now being defaulted for non-payment and that NatWest had made the decision to no longer provide banking services to D. Mr T was very unhappy about this and he explained the difficult personal circumstances he'd encountered which, because he was the sole director of D, had led to D falling into arrears on its loans. NatWest agreed to consider Mr T's appeal in their ongoing review of his earlier raised complaint.*

*NatWest formally responded to D's complaint on 10 July 2023, at which time it accepted that D's accounts shouldn't have been moved to collections and that it shouldn't have agreed to arrears repayment plans that didn't fully address all the arrears owed by D. NatWest apologised to D for this, and they sent a cheque for £200 as compensation for any trouble D had incurred. NatWest also agreed to remove the adverse credit file reporting for both the SBL and BBL from May 2023 to June 2023.*

*Importantly, NatWest also agreed to place a two week hold on D's accounts to allow Mr T, upon his receipt of the complaint response letter, time to call NatWest and arrange suitable arrears' repayment plans with them. NatWest confirmed that if no arrears' repayment plans were agreed within those two-weeks that D's loans would move back to their collections team and be defaulted – although I question the fairness of such an action, given that no valid formal demands had at that point been issued.*

*Mr T didn't contact NatWest within two weeks of the complaint response being sent to him. And because of this, NatWest moved D's accounts back to their collections team as they'd explained that they would.*

*On 7 August 2023, Mr T called NatWest and explained that he hadn't received their complaint response and so hadn't been aware of the two-week timeframe within which he needed to contact them. NatWest considered Mr T's dissatisfaction and issued a follow up response to him on 10 August 2023. In this response, NatWest explained that their initial complaint response had been sent to him as an email on 10 July 2023 and that the email was showing as being successfully delivered. As such, NatWest didn't feel they'd done anything wrong by returning D's accounts to their collections team as they'd explained that they would in that 10 July email.*

*Upon consideration of all the above, I feel that a number of errors were made by both NatWest and Mr T that contributed to what happened. These include that both NatWest and Mr T don't appear to have been aware of the status of D's accounts, as would reasonably be expected, which led to NatWest agreeing arrears repayment plans that their own systems recognised as being insufficient as soon as they were set up.*

*Given the turbulent history of D's accounts because of the errors made by both Mr T and NatWest, I find myself questioning whether it was fair for NatWest to have issued a response to D's complaint within which it gave Mr T two weeks to call and arrange suitable arrears repayment plans with them. And I especially question why NatWest didn't proactively try to call Mr T themselves during this two-week period or send any reminders or further correspondence to Mr T to mitigate against the possibility that he might not have received the complaint response or recognised from it that he needed to act quickly with such important consequence if he did not.*

*Ultimately, I don't feel that NatWest's actions in this regard were fair. And in taking this position I've considered that NatWest upheld a similar complaint in March 2023, when it accepted that it shouldn't have issued formal demands to D, without making appropriate attempts to contact Mr T beforehand. And in this instance, NatWest issued a single email without any follow up or proactive attempted contact by them, providing a relatively short period of time for Mr T to contact them, while also having been made by Mr T in recent prior conversations with him of significant personal difficulties that he'd experienced, and which he might potentially still be experiencing.*

*Furthermore, Mr T was actively trying to address D's arrears, having made two payment plans with NatWest – and having made the first payments on both of those plans before the plans were cancelled by NatWest. And while I accept that it was Mr T's responsibility to have been aware of D's BBL arrears and to have addressed them, it was equally NatWest's responsibility to have been aware of D's BBL arrears and to have raised the issue of those arrears with Mr T.*

*All of which means that my provisional decision here is that I uphold this complaint in D's favour. In short, this is because I don't feel NatWest acted fairly in how they implemented the two-week hold they gave to D to make arrears repayment arrangements with them. And had*

*NatWest acted fairly, I feel that Mr T would have contacted them to make such arrangements and that both D's SBL and BBL wouldn't have been defaulted by them.*

*As such, my provisional instructions to NatWest are that they must either:*

- Reinstate D's SBL and BBL with no adverse credit file reporting from June 2023 onwards (following the credit file amendments provided by their 10 July 2023 complaint response) and allow Mr T 30 days from the date of any final decision letter I might later issue confirming this decision to contact them and arrange suitable arrears repayment plans. NatWest should also proactively attempt to contact Mr T during this 30-day period if Mr T doesn't contact them soon after it begins. If Mr T doesn't contact NatWest within those 30-days, then I feel it would be fair that NatWest can consider issuing formal demand notices to D at that time.*
- Or, if NatWest are unwilling to resume a business relationship with D, they must write off the balances of both the SBL and the BBL and remove all adverse credit file reporting relating to those loans from June 2023 onwards.*

*Finally, I'm aware that NatWest have already made payments totalling £280 to D as compensation for the mistakes they've made here. These payments seem fair to me for the mistakes that they address. However, I note that Mr T has said he never received the cheque for £200 that NatWest sent, and so NatWest should reissue this cheque to D if it remains uncashed.*

*But these payments of £280 don't take account of NatWest's unfair actions surrounding the two-week notice they provided to Mr T. As such, my provisional instructions also include that NatWest must pay a further £150 to D as compensation as for the ongoing trouble and inconvenience it has incurred because its accounts were unfairly returned to NatWest's collections department.*

*I'm aware that Mr T feels that he'd incurred a great deal of personal worry and distress because of NatWest's actions here, for which he should be personally compensated. But as our investigator has previously explained, this complaint is raised in the name of D – the limited company – which as the loan account holder is the eligible complainant here. As such, I'm unable to consider awarding any compensation to Mr T on a personal basis. And it also must be noted that D as a limited company can't experience any upset or distress.*

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NatWest responded to my provisional decision and confirmed that they accepted it and that they agreed to the first of the two options given to them in the provisional decision letter.

Mr T also responded to my provisional decision and said that his preferred option of the two given to NatWest was option two – which would involve the writing-off of the two loan balances. However, I can confirm to Mr T that my provisional decision gave the choice to NatWest as to which of the two options they were willing to accept. And ultimately, given that D has had the benefit of both the SBL and BBL loan amounts, if NatWest is willing to reinstate those loans – which NatWest have confirmed that they are – then I feel it's fair that D should be held to the terms of those loans and should be expected to repay them.

All of which means that my final decision here is that I uphold this complaint in D's favour on basis of option one in my provisional decision above.

## **Putting things right**

NatWest must reinstate D's SBL and BBL with no adverse credit file reporting from June 2023 onwards (following the credit file amendments provided by their 10 July 2023 complaint response).

D must allow Mr T 30 days from the date of this final decision letter to contact them and arrange suitable arrears repayment plans. NatWest should also proactively attempt to contact Mr T during this 30-day period if Mr T doesn't contact them soon after it begins.

If Mr T doesn't engage with NatWest within 30-days of this final decision letter and arrange arrears repayment plans with them – to be paid alongside the contractual monthly payments for the loans once they are reinstated – then I feel it would be fair that NatWest can consider issuing formal demand notices to D for those loans when those 30-days have passed.

Finally, NatWest must pay a total of £350 to D as compensation for the inconvenience D has incurred here.

## **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 D to accept or reject my decision before 16 April 2024.

Paul Cooper  
**Ombudsman**