

The complaint

Mr S has complained that National Westminster Bank Plc (“NatWest”) failed to make it clear to him that he could have a Premier account, without needing to have a fee-paying Black package.

Mr S says that, if NatWest had carried out reviews of his accounts, it would’ve been made clearer to him sooner that he could downgrade his packaged account and still retain his Premier account status.

What happened

NatWest responded to Mr S’s complaint by saying that Mr S had complained outside of the time limits, and so NatWest didn’t look into the merits of Mr S’s complaint.

After Mr S referred his complaint to this service, one of our investigators ultimately concluded that our service is able to consider Mr S’s complaint.

Another one of our investigators assessed the complaint and they concluded that although things may not have gone as they should’ve, they were satisfied that NatWest had sent correspondence to Mr S reminding him of the insurance benefits of the account, what the eligibility criteria were for those benefits and also how he could get in touch if he wanted to discuss the account or the associated benefits. The investigator said that NatWest had written to Mr S multiple times since 2013, inviting him to get in contact if he was no longer happy with the packaged account that he had. So the investigator concluded that NatWest had given Mr S plenty of opportunities to discuss alternative accounts if he was unhappy with the packaged account that he had – as he ultimately did in March 2022.

The investigator did say however, that NatWest was willing to pay Mr S £100 as a gesture of Goodwill. This was because it was unable to provide evidence showing when the account reviews took place, and was unable to explain why a review might not have taken place every year.

Mr S was unhappy with the investigators assessment, so the matter was referred for an ombudsman’s decision.

I issued a provisional decision explaining why I was not minded to uphold the complaint. I have included an extract of my provisional decision below and it forms a part of this decision.

“What I’ve provisionally 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 considered everything, I currently don’t think the complaint should be upheld. I will explain why.

Mr S has gone into a lot of detail about his complaint here and what he sees as the different points he wants this service to address. I’m mindful that my decision here

may be shorter and more concise than he perhaps expects. But this doesn't mean that I haven't considered the points he's raised – I have. But if I haven't referred to a specific point, then that's because I haven't needed to when reaching a decision on what's fair and reasonable in the circumstances here.

Firstly, I note that Mr S is unhappy with how NatWest dealt with his complaint. Specifically, that NatWest said that it was unable to consider the complaint because Mr S had complained too late and also that it didn't refer to the rule that contained the time limit.

NatWest is free to decide how it deals with a complaint. Here it felt that parts of Mr S's complaint had been made too late under the Dispute Resolution (DISP) rules in the Financial Conduct Authority's handbook. These rules – in particular DISP 1.8.1R - allow for financial businesses to not assess the merits of a complaint in a final response letter and instead say why they think a complaint has been raised outside of the relevant time limits.

I note that Mr S asked which specific rule that NatWest was referring to and I think it would've helped matters had NatWest explained which one it was relying on. Mr S's point is that relying on this rule was a mistake by NatWest, as this service has subsequently explained that we can look at the complaint under the parts of the rules that apply to us.

I see Mr S's point – ultimately had NatWest thought more about what Mr S was complaining about then it may have been able to provide him with a substantive response sooner and, in doing so, he views this as a failure in its customer service. But NatWest saying this to Mr S didn't prevent him from being able to approach this service and this service has taken his complaint forward. So even if it would have been helpful for NatWest to have done that sooner – I don't see it as causing any material distress and/or inconvenience to Mr S in a way that means we could award further compensation.

Turning now to the substantive aspect of Mr S's complaint, Mr S is unhappy that NatWest never made it clear to him that he could in fact have a Premier account, but without needing to have a fee-paying package included with his account. Mr S says that NatWest should've made this clear to him during annual reviews.

Looking through the evidence on file, it doesn't seem to be the case that Mr S did have a review of his account each and every year. It seems that Mr S did have some occasional interaction with his personal banking managers, but this did not necessarily always take the form of a review. NatWest has provided evidence that one of the banking managers said that they recall speaking with Mr S in 2020 and he confirmed that he was happy with his account and so no review was carried out. Then it seems Mr S didn't have a face-to-face meeting with a personal banking manager since then, I suspect in large part due to the impacts of the pandemic.

I have looked at literature concerning Mr S's account - including the account terms and conditions, NatWest's website, and archived versions of NatWest's website going back to 2017. I can see that having a review (also referred to as a financial health check) or face-to-face meeting with a personal banking manager is a service that NatWest offers its Premier banking customers. But, in all of the documents I have seen, this is stated as being a service that a customer can take advantage of, if they feel that it would be beneficial to them, rather than it being something that NatWest was obliged to pro-actively do each and every year.

Therefore, I don't think that NatWest was being unfair or unreasonable if it didn't carry out such a review of Mr S's finances each and every year - particularly from when Mr S says that his circumstances changed. And based on the personal banking manager's recollections of the last conversation they had with Mr S in 2020, it seems that Mr S was relatively happy with his account. And even when considering Mr S's testimony, there is nothing to indicate that he had asked what options were available to him to reduce the monthly fee on his account. So I don't think it is entirely unreasonable if the personal banking manager didn't proactively offer such a review or offered to discuss what alternative account options were available to him.

NatWest has however been obliged, amongst other things, to send Mr S an annual eligibility statement ("AES"). This requirement came into effect in 2013, and so the latest time that NatWest could send the first AES to Mr S was in 2014.

NatWest has provided our service with an audit trail that shows it sent Mr S an AES in December 2013, and further ones in May 2014 and then every May since then. NatWest has provided evidence that it had the correct email address for Mr S and Mr S has also provided copies of emails he received from NatWest. So I'm satisfied that NatWest was sending Mr S the AES's.

Having seen copies of the AES's, they don't explicitly mention what is and isn't available under the Premier account designation specifically. But they do state what insurance benefits were included in the fee-paying Reward Black packaged account; they state what the eligibility criteria are for those insurance products; and they prompted Mr S to check whether the products were still right for his circumstances. They also invited Mr S to contact the Private Banking team if he wished to discuss whether the Reward Black package was the right product for him.

So even though the AES's didn't specifically mention that the Reward Black package could be removed and he still be registered as a Premier customer, I think they were sufficient to encourage a customer to reflect on the account they had and the features attached to it and whether it still provided value for money for their particular circumstances.

In addition to the AES's, I can see that NatWest emailed Mr S in August 2018 to notify him about changes that were taking place on his account. In this email it explained that changes were being made to the Reward Black account, and included a reminder of the benefits of the account. The email went on to say:

"However, we do offer a choice of other accounts, with and without benefits and a monthly account fee. If you'd like to change your account or close it altogether let us know and we'll help you with that.

If you are happy with these new and updated benefits and happy to keep your account you don't need to do anything.

It's important you review your account benefits regularly to ensure these still meet your needs and review any policies you hold to make sure you've not got the cover twice."

So again, I acknowledge that the email does not mention what is and isn't available under the Premier account designation specifically. But, like the AES's, it does invite Mr S to get in contact to discuss his options if he wanted to change his account. And it explains that accounts without fees are available.

Having considered Mr S's testimony, it does not appear to be in dispute that he was aware he was paying a monthly fee for his account and that he was generally aware of the benefits provided by his account. Therefore, if it was the case that Mr S didn't want to pay for his account anymore, or that he felt that it was no longer suitable for him - for example due to a change in his circumstances - then I think that NatWest provided Mr S with reasonable opportunities for him to get in contact to discuss his account options.

I recognise that Mr S's complaint is specifically that he didn't realise that the Reward Black package could be removed and still be registered as a Premier customer. In the circumstances, I appreciate that Mr S can't reasonably be expected to know the ins and outs of how NatWest's accounts operate. But equally, I wouldn't necessarily expect NatWest to have pro-actively offered this information unless Mr S had asked what alternatives existed or, at the very least, expressed dissatisfaction with his existing account. But I can't see that Mr S did either of these things. So, in the circumstances, I don't think it's reasonable to say that NatWest has acted unfairly or unreasonably.

Following our involvement, NatWest said that it was willing to pay Mr S £100 as a gesture of goodwill due to the lack of records it holds regarding the contact Mr S had with the personal banking manager. I understand that this is also to reflect that Mr S might not have received as many account reviews from the personal banking manager as he would've liked.

This is a helpful gesture, but in my view, it's not something I think would be fair for me to tell NatWest that it must pay Mr S. I say this because even if NatWest acknowledges that its records are limited and that he didn't receive as many reviews as he would have expected – I'm satisfied that Mr S should reasonably have had cause to approach NatWest about his account from the correspondence it sent him over the years about his account. So, while Mr S is free to approach NatWest to accept this – I won't be telling NatWest that it has to pay this.”

After I issued my provisional decision, NatWest didn't respond. Mr S however did respond. Mr S did not accept my provisional decision and in summary he said:

- He did not understand the reference to further compensation, when I wasn't awarding any.
- NatWest failed to understand his complaint, which led to it raising a time bar objection even when it was clear he was complaining about matters that occurred within six years and so was therefore something this service could consider. Mr S says he should be compensated for the delay that caused.
- He agrees that the notice of variation email issued in 2018 didn't explain that he could remove the fee-paying package on his account, but retain Premier banking status.
- My provisional decision implies that once a consumer is sent something, such as the notice of variation, it is reasonable to expect a consumer to remember the contents of the document regardless of how much time has lapsed since it was sent. Mr S says its unreasonable to expect someone to recall the contents of an email years after it'd been sent to them.
- I only considered what NatWest's website said about providing annual reviews, rather than what it should've said.
- The gist of my provisional decision is that it was up to Mr S to approach NatWest if he was unhappy with his account. But Mr S says that the FCA rules, the custom of providing annual reviews, and annual reviews being an implied term meant that

- NatWest should've taken further steps.
- That NatWest has confirmed annual reviews should've been carried out and he says that there had previously been a pattern of annual reviews, therefore Mr S says it was reasonable to expect an annual review. Mr S says that had annual reviews occurred, it's likely that he would've become aware sooner of the ability to remain as a Premier customer without paying the monthly fee.
 - Mr S says that the FCA's principle 6 and outcome 3 impose a positive duty to inform customers about significant matters, rather than a passive one of only reacting to specific queries if and when asked. Mr S says that NatWest should've set out the range of alternative account options when communicating with him.
 - Mr S says that the AES's sent since 2018 made no mention of alternative accounts.

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 reconsidered everything, including Mr S's responses to my provisional decision, I remain of the view that NatWest didn't act unfairly or unreasonably. And so I don't uphold this complaint.

Mr S has questioned why I referred to further compensation in my provisional decision, when I wasn't awarding any. In the provisional decision, I said 'further compensation' as NatWest had already offered to pay Mr S some compensation as a gesture of goodwill. I'd explained that if Mr S wishes to receive that compensation, he should contact NatWest directly.

Mr S says that he should be awarded compensation because NatWest said that the complaint was raised outside of the time limits and determining whether or not that was the case caused him unnecessary delay. However, although this service ultimately concluded that the complaint was raised *within* the relevant time limits, NatWest was entitled to raise its objections, as the FCA DISP rules state. So I don't think it would be appropriate to say that NatWest should pay Mr S compensation just because its decision to do so delayed the merits of the case being considered – and I think that is the case even though this service ultimately didn't agree with NatWest's conclusions about the time limits.

Mr S says that it is unreasonable to expect a consumer to recall the contents of an email received from their bank years after it was received. I agree. Most people have more pressing matters in their day-to-day life than remembering what their bank may've said about changes being made to their bank account a number of years ago. But the notice of variation in question was sent to Mr S in August 2018. And it was in 2018 when I understand that Mr S says he experienced a large drop in his income, which is the point from when Mr S would like a refund of his packaged account fees.

So around the time that Mr S says he should've had a review and been told what alternatives existed, NatWest had written to him, set out the changes being made to his account and said that he should get in contact if he was unhappy with his account. And it reminded him that fee-free alternatives existed.

I also note that the notice of variation was sent around the time that he'd been introduced (via email) to his new Premier banking manager. So in my view, although Mr S may not have had an account review at that time, I think that NatWest had taken reasonable steps to provide Mr S with important information about his account. This provided Mr S with an opportunity to consider his options and an opportunity to ask for a review if he wanted one.

In addition to the notice of variation, Mr S was also sent AESs each year. So even if Mr S had forgotten about the contents of the notice of variation in the following years (which is understandable if he had), NatWest had sent him annual prompts to contact his Premier Banking Manager, to discuss alternative accounts if he was unhappy with his account. Again, I think this was reasonable and is evidence that NatWest was paying due regard to Mr S's interest and was treating him fairly - checking he was still happy with the particular account that he had, and that it was still right for his circumstances. And although Mr S says that NatWest should've set out all of the alternative account options, I don't think it was unreasonable if NatWest didn't do that in the AESs. I say this given that the FCA set guidelines on what information should be contained within the AES.

Mr S says that he did previously have annual reviews, and therefore says it was implied that this was therefore something he should expect every year. I note too that, generally speaking, NatWest says that it does provide annual reviews to its Premier customers. However, I don't think this means that NatWest was obliged to provide an annual review for all Premier account holders, each and every year. Instead, from everything I have seen, it seems it was an option available to the consumer if they wanted one. And I've not seen anything in the terms and conditions, that says that NatWest are obliged to carry one out every year.

In this case, I recognise that Mr S was unhappy with the lack of contact he'd had from his banking manager for a period of time. But I can see that Mr S was introduced to his new manager in July 2018. Given that Mr S says that he'd had annual reviews in the past, then I would've expected him to have asked for one, once he was put in contact with his new banking manager in 2018, if that was what he wanted. But from everything I have seen, I can't see that he did. Furthermore, the banking manager recalls speaking with Mr S in 2020 and he confirmed that he was still happy with his account. So again, given Mr S's apparent satisfaction with his account at the time, I don't think it was unreasonable if the Premier Banking manager didn't then arrange an annual review for him.

So, in the circumstances, I think it would be unreasonable to say that NatWest are at fault because it didn't insist on Mr S having an annual review - when he had confirmed he was happy with his existing account.

I would be minded to reach a different outcome, say, if Mr S had asked for a review when he met his new banking manager in 2018 and one was not then arranged. Or for example, if he had said he was unhappy with his account (or its costs) and an account review was not then offered. But since Mr S was allocated a new manager in 2018, I can't see that he'd asked for an account review. Nor have I seen evidence that he'd expressed dissatisfaction about the package of products included with his account or with how much he was being charged in monthly account fees either.

So overall, having reviewed everything, I don't think that NatWest has acted unfairly or unreasonably in this matter. I appreciate that, with the benefit of hindsight, Mr S may now wish that he'd asked for the annual account reviews to recommence since 2018 - so he could've better understood NatWest's range of accounts. And I understand he would've liked it if NatWest had sent out a reminder of its up-to-date range of accounts. But I don't think NatWest has acted unfairly or unreasonably if it didn't do these things in the given circumstances.

Because of this, I don't think it is appropriate to say that NatWest should refund Mr S's packaged account fees from when his circumstances changed.

My final decision

Because of the reasons given above and in my provisional decision, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 June 2024.

Thomas White
Ombudsman