DRN-4742159

The complaint

A company, which I'll refer to as H, complains that National Westminster Bank Plc has unfairly refused to restore its Bounce Back Loan account after the debt was sent to the bank's recoveries department.

What happened

In August 2020, H successfully applied for a £50,000 BBL from NatWest. Repayments were scheduled to begin a year later.

BBLs were designed to help businesses get finance more quickly if they were adversely affected by the coronavirus outbreak. Under a government-backed scheme, lenders could provide a loan with a six-year term for up to 25% of the customer's turnover, subject to a maximum of £50,000.

H made repayments in the autumn of 2021, but they were erratic and there were arrears. Early in 2022, NatWest issued letters and emails to H advising that the account was in arrears. The bank also attempted to contact H by phone.

NatWest didn't hear from H and in October 2022 the bank wrote to the company to issue a formal demand for full payment of the BBL. At the point of default, there were arrears of £2,664.49. No payment was received and the bank transferred the debt to its recoveries department. The default was registered with credit reference agencies.

Early in 2023, H provided income and expenditure details and in March a repayment plan was agreed, under which H would make monthly payments, initially for 12 months. However, the BBL debt remained in recoveries. H requested that the loan should be restored as an active account. When the bank declined to do this, H submitted a formal complaint. The company said it hadn't received the bank's letters or emails about the arrears during 2022.

H wasn't satisfied with the bank's response, so it referred its complaint to us. H said that the loan being in recoveries had compromised the company's refinancing arrangements, leading to financial penalties on a bridging loan and a higher interest rate than had originally been arranged on its mortgage. H wanted the bank to take the debt out of recoveries and reimburse its losses on the bridging loan and mortgage, including future losses.

Our investigator looked at the evidence and didn't recommend that NatWest should be required to offer any compensation or take any further action. He gave the following reasons, in summary:

- The terms of the BBL agreement allowed NatWest to cancel the loan facility as a result of the arrears and to demand its immediate repayment. The investigator didn't think the bank acted unreasonably in this respect.

- With the loan terminated, there was no longer any requirement for the bank to agree to repayments under the original agreement. The account is non-operational and

remains open only to receive credits. This is standard practice for the whole industry. There is a monthly repayment plan, but the bank has no responsibility to remove any default applied because of previous non-payment. Credit reports should show an accurate depiction of the lending.

- The bank sent its letters to the address provided by the company. H had moved premises and had put a postal redirection service in place, but that seems not to have worked. The investigator didn't think it was the result of any bank error. The address held by the bank was updated in December 2022.

H didn't agree with the investigator's findings. One of its directors made the following points, in summary:

- There's no reason why NatWest couldn't bring the BBL account back from recoveries. The bank may be following standard practice in the industry, but just because everybody does something, it doesn't mean it's always right.

- Repayments were a little erratic but the directors believe that at the time the account was put into recoveries, H had actually paid off more than was due.

- The letters sent to H's previous address should have been redirected to the new address. The postal service was acting as an agent of NatWest, and therefore the failure of the postal redirect service was a failure of the bank.

- The bank didn't leave voicemail messages when it called H and got no answer. H couldn't return the calls because they appeared as 'caller unknown.'

- Following the failure of the letter delivery, NatWest failed to take adequate follow-up actions to ensure it did communicate with H. NatWest could have done much more to communicate with H – for example, by writing to the address registered at Companies House, checking on social media to see if the address in the bank's records was still correct, calling outside busy hours for the business, having a human rather than AI online query system, and having a telephone system which was accessible without an interminable wait.

- The bank failed to comply with its communications obligations set out in the Financial Conduct Authority (FCA) principles. In particular, its communications weren't effective.

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 done that, I've reached the same conclusions as the investigator, and for largely the same reasons as described above.

I realise that H's director has said that the company wishes to look forward, and is less interested in going over what went wrong in 2022 than in working out how the BBL could be brought back from recoveries. I understand his point, but in order to consider whether I could reasonably make a determination that might change the status of the BBL debt, I do need to consider whether the bank acted fairly in transferring the debt to recoveries.

The demand for full repayment and the transfer to the recoveries department

H's directors believe that H had paid off more than was due when NatWest moved the debt into its recoveries department. But having looked at the statement of the loan and the repayments made, I don't agree that H had repaid more than was due. By the time NatWest issued its formal demand notice early in October 2022, the BBL repayments were three months in arrears, and hadn't been up to date for five months. The formal demand expired in mid-October 2022 without any further payments.

Failure to make a repayment within one month of its due date was specified in the BBL agreement as an act of default, so I'm satisfied that the bank was entitled to require full repayment of the loan in October 2022.

When the formal demand expired without repayment, NatWest moved the debt into its recoveries department. From that point onwards, the BBL became non-operational, though H still owed the balance of the loan.

NatWest then sought details from H about its income and expenditure and later agreed an initial repayment plan for the debt.

Generally, I think it's reasonable for a bank to expect lending to be repaid in line with the loan agreement. In this case, the loan hadn't been repaid in line with the terms of the BBL agreement, so NatWest brought the agreement to an end. Despite being entitled to immediate repayment of the debt in full, the bank then agreed to accept instalments. In the circumstances, I don't think the bank's actions were unfair.

H has said that NatWest failed to communicate effectively with the company about the arrears and its actions. I've looked at NatWest's contact records and I can see that the bank did send letters and emails to H, both when it was concerned about the erratic repayments and later in advance of the default. The bank also attempted to reach H by phone.

NatWest wrote to H about the arrears and the repayment demand at the address that H had given to the bank. The company says it didn't receive the letters. I'm satisfied that the letters were sent, so it's likely that the problem arose because H had moved premises.

H's director believes that if the postal redirection service failed, then the liability for that failure rests with the bank. But I don't think I can reasonably hold the bank responsible for any letters not being sent on to the new address. The postal redirection was an arrangement between H and the postal service, which didn't involve the bank. The bank wasn't aware that H had moved, and H didn't notify NatWest about its new address until after the debt had been passed to recoveries.

I don't regard it as unreasonable for the bank to have chosen not to leave voicemails when its phone calls were unanswered, given the potential security and privacy risks involved in leaving such messages.

H's director argues that NatWest should have adopted other strategies to find the company and open up communications with it, but I think the bank did enough by sending letters and emails and by attempting phone calls. It appears that the letters didn't reach H, but ultimately the reason was that the company had moved to new premises. In my view, it was H's responsibility to ensure that NatWest held its correct address.

I should also say that, regardless of whether H received the letters that NatWest sent or not, it was the responsibility of H, as the BBL account holder, to have been aware of the ongoing status of the account. This includes monitoring whether the contractually required monthly

payments for the BBL were being made. H's obligations to make monthly repayments were clearly set out in the agreement at the outset, so I'm satisfied that H was aware of those obligations. H's repayments were erratic from the start and were frequently late and in arrears. Taking all the evidence into account, I believe that H ought to have been aware that it wasn't keeping up its repayments on the loan as required.

H's director believes the bank, in its communications about the BBL, didn't comply with FCA principles. But the BBL wasn't an FCA-regulated product. As commercial lending to a limited company, the loan was entirely outside the FCA's scope. So in this case there were no formal obligations on the bank arising from any FCA principles or regulations. Nevertheless, I've considered whether NatWest acted unfairly or unreasonably towards H, and I've concluded that it did not, for the reasons I've given above.

H's request to bring the loan back from recoveries

After the default and the transfer to the recoveries department, H still owed the balance of the debt, but the original BBL repayment schedule was no longer in force and H had no access to the account to manage it. In effect, the BBL had been closed. Information on the default was registered with credit reference agencies. The bank declined H's request to re-open the BBL and to remove the adverse credit information. All this is normal practice when loans have been called in because of repayment problems.

I agree with H's director that standard industry practice shouldn't be seen as immutable. In my view, if the outcome of these arrangements had been unfair, then things could be changed. In such circumstances, it would be within my power to instruct the bank to set up a loan on terms equivalent to the BBL, and to remove any adverse credit file information. But I would do that only if I believed the bank had acted unfairly – and that's not what I believe happened in H's case. I've said above that I don't think it was unfair or unreasonable for the bank to have regarded the BBL as in default or to have transferred the debt to its recoveries department.

H's director has pointed out that the instalments in its repayment plan are of equivalent value to the monthly repayments that would have been due on the BBL. But that doesn't change my decision. The BBL is now closed because of the default, and the repayment plan is a new and different arrangement to deal with H's debt. I don't think this is unreasonable or unfair.

In the circumstances, I couldn't reasonably require the removal of adverse credit file information which is a record of what actually happened.

For the above reasons, I find that NatWest didn't act unreasonably or unfairly when it declined to restore the BBL account or to remove the adverse credit file information.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask H to accept or reject my decision before 25 July 2024.

Colin Brown
Ombudsman