

The complaint

Mr and Mrs O complain that when they took a payment holiday on their mortgage, National Westminster Bank Plc did not give them clear and fair information about it would work. As a result, they ended up in arrears on their mortgage, experienced financial difficulty and weren't able to take a debt consolidation loan they wanted.

What happened

Mr and Mrs O have a mortgage with NatWest. They took two payment deferrals on their mortgage - one in April 2020 and the other in August 2020. The deferrals were agreed under the Financial Conduct Authority's (FCA) guidance to support consumers affected by the Covid 19 pandemic and ran from May until October 2020. When those deferrals ended, Mr and Mrs O agreed another three-month payment deferral with NatWest, covering November and December 2020 and January 2021.

Mr and Mrs O said when they arranged the deferrals, they were told that the deferred payments would be added to end of their mortgage term. But NatWest did not do that. Rather it increased their payments. But soon after the payments went up Mr O lost his job. Mr and Mrs O said they asked for a loan to consolidate their debts – but NatWest declined to do so because the mortgage was in arrears. They said NatWest did not tell them that they would not be able to apply for a loan because of the November deferral.

Mr and Mrs O said that NatWest later removed their overdraft and credit card facilities and this has left them unable to afford food and essential items for their family – despite knowing that they had vulnerable children. They said that NatWest had also threatened to repossess their home.

Mr and Mrs O complain that NatWest gave them misleading information about how the November deferral would operate and omitted important information. They also complain that NatWest has not treated them fairly while they experienced financial difficulty – that was caused in part by the misleading information given by NatWest. Mr and Mrs O also said they'd overpaid their mortgage, so they did not understand they were in arrears.

I have issued two provisional decisions upholding the complain in part. My last provisional findings, which form part of this decision, were:

Points I can't consider

Mr and Mrs O have raised some points in response to my provisional decision that did not form part of their original complaint. Under our rules, I do not have the power to make a decision on those points. If I did so my decision would not stand. So I have not made any decision on the following complaints:

- *The initial advice to take out an overdraft and credit card.*
- *The letters from NatWest about changes in interest rates aren't received until months later.*
- *The fees and interest added to the overdraft.*

- *That NatWest has not treated them fairly on their current account when they experienced financial difficulty.*
- *The discrepancy on the mortgage statements where payments applied to some sub-accounts are showing as card payments – but to the other it shows as a direct debit.*

Complaint handling

After reviewing everything again, I agree to some extent with Mr and Mrs O about the way that NatWest has handled this complaint, particularly when it was referred to us. NatWest is a regulated business and has an obligation to deal with complaints in a certain way. It should carry out an investigation before the case reaches us, provide all of the relevant evidence to us and cooperate with requests from us.

The recordings that NatWest did give us should have been provided earlier. It should have been able to identify that Mrs O held a credit card with it.

I've already proposed awarding Mr and Mrs O £50 for the distress and inconvenience caused specifically by not retaining a recording of the phone call of 24 November 2020. There have been delays by NatWest in providing information throughout this complaint.

Following Mr and Mrs O's response to my first provisional decision I made a detailed information request to NatWest for evidence and a rationale for why it considered its actions were consistent with the relevant guidance in place and to comment on Mr O's response (which was 8 pages long) to my provisional decision. NatWest did not answer most of my questions or provide all of the evidence I asked for. Its response was very short. It then said, wrongly in my view, that the information it had originally provided answered the questions I'd asked.

I don't consider NatWest has given me the information I requested. But it has given me two letters it said was sent to Mr and Mrs O. These letters are clearly relevant to this complaint – they show that NatWest gave Mr and Mrs O the information they dispute receiving. NatWest should have given us this information as part of its initial submission – not at this late stage well over a year into our investigation.

NatWest knows this is a longstanding complaint that has caused Mr and Mrs O a great deal of anguish – and it knows they are vulnerable. Mr and Mrs O have made the point consistently that NatWest is not listening to them or taking their complaint seriously. Looking again at the information we have, I don't think the way it dealt with the complaint once with us is in line with the standard I would in my experience expect to see. I think that has meant this complaint has taken longer to resolve than it should have. And that has added to the distress and inconvenience caused to Mr and Mrs O.

I've looked at our file. The delays by NatWest add up to over three months. There is no justifiable explanation for those delays. I think it has meant that this complaint has taken longer to resolve than it should have – and involved Mr and Mrs O going over sensitive and difficult information repeatedly.

It also meant we've had information drip fed to us rather than the full and open disclosure I'd expect if an adequate investigation had been carried out in the first place. That has clearly caused Mr and Mrs O inconvenience – they have had to go to the trouble of gathering evidence to show that what NatWest has told us is wrong, for example in respect of whether they had a credit card.

Our guidance says that where a business's mistake has caused considerable distress and/or

significant inconvenience that needs a lot of effort to sort out, typically over many weeks or months, then we would make an award in the range of £300 to £750. On reflection, and in view of Mr and Mrs O's vulnerability, I consider NatWest's complaint handling has added to Mr and Mrs O's distress and inconvenience to the extent that it should pay them £350 to reflect that.

Our rules allow me to take into account the failure of either party to provide information I requested. So I will do so in this decision. But I am satisfied I have enough information to reach a decision – but it would have been much more straightforward had NatWest just given the information I asked for.

FCA payment deferrals

NatWest agreed two payment deferrals under the FCA scheme. I don't agree that the evidence I have shows that NatWest administered them correctly. The guidance around the deferral changed over time. But I consider it has administered the deferrals correctly. The deferred payments would always be added to the balance and attract interest.

At the time it was in line with the guidance for NatWest to recalculate the monthly payment in view of the increased mortgage balance because of the deferred payments.

NatWest has provided letters that set out the increased payments. Mr and Mrs O said they never received them. But they are correctly addressed and I have no reason to doubt that they were automatically sent. So I consider NatWest took reasonable steps to tell Mr and Mrs O about the increase in payments.

November deferral

There are two parts to this:

1) Did NatWest treat Mr and Mrs O fairly in agreeing a further payment deferral?

When the FCA deferrals ended NatWest was required to consider Mr and Mrs O's circumstances fairly and offer them help. Based on the information available to me a deferral was the right thing for Mr and Mrs O bearing in mind the evidence we have supports they told NatWest they could not afford any payments. So I think it was reasonable to offer that as a concession.

2) Did NatWest explain how the deferral worked?

NatWest was also required to communicate with Mr and Mrs O in a way that was clear, fair and not misleading. Their complaint is that NatWest did not explain that the last deferral operated differently to the earlier deferrals. They told NatWest that they would struggle to make their mortgage payments. Putting aside that it is not clear what else Mr and Mrs O could have done other than defer their payments, I need to consider whether NatWest gave them enough information to make an informed choice to agree to the payment deferral in November 2020.

We now have additional information that supports Mr and Mrs O were given clear, fair and not misleading information about the difference between the November 2020 deferral and the previous FCA deferrals. NatWest has given us letters it sent to Mr and Mrs O on 29 July and 29 October 2020. I'll focus on the October letter as that is relevant to this complaint.

The letter is correctly addressed and I am satisfied it is more likely than not it was sent

Mr and Mrs O said in their original submission:

"In late 2020, Natwest offered to provide us with a 3 month payment holiday due to financial issues related to the pandemic. We spoke with them regarding the issue over the telephone. During this conversation we were advised that arrears would be placed on the account. We asked if those arrears would be added to the end of the mortgage period to extend it by three months. The advisor agreed that this would be the process. We agreed to the three month mortgage holiday and to start paying the mortgage again in March 2021. Following this, we received some paperwork from Natwest that set out a change to the repayments from March 2021 in which it stated that our repayments would go up by about £100 per month. This was confusing as we finished the initial conversation by thinking we had just agreed to extend our mortgage by three months without it affecting us by as much as around £100 per month. We were also NOT advised that we would not be allowed to apply for any loans etc with us being in arrears."

The phone calls I have are from 19 and 20 November 2020. On 19 November, Mrs O spoke with NatWest. She said the payment deferral had ended and she wanted to extend the term of the mortgage to bring down their payments. NatWest said Mrs O would need to speak to a different department to extend the term. It said it would need to consider Mr and Mrs O's income and expenditure before it could decide what was best for them. It said there were two options, both of which would show on Mr and Mrs O's credit file:

1. A deferral. It said it works "pretty much" the same as "payment holiday" (what it called the earlier deferrals) but at the end, the three-month payments "would be in arrears" and then an arrangement would need to be made to clear the arrears.

2. Part payment plan. Mr and Mrs O would make a payment to cover as much of the monthly payment they could afford for three months. They would then have to agree a plan to make up the missed payments.

I'm satisfied that NatWest gave Mr and Mrs O correct and fair information about the options available to them on 19 November. And that is reflected in its notes of the conversation. It asked Mr and Mrs O to complete and return an income and expenditure form.

On 20 November 2020, Mrs O spoke to NatWest again. She said she'd finished a payment deferral and repeated her request for a term extension. NatWest said again that a further deferral or payment holiday would affect Mr and Mrs O's credit file. It also said whatever Mr and Mrs O wanted to do, they would need to complete an income and expenditure form. If it showed the mortgage was affordable, it could consider a term extension, but if not then it would explore options available to help them. That is reflected in NatWest's note of the conversation.

I am satisfied in the phone call on 19 November 2020 NatWest told Mrs O that the November deferral would operate differently from the previous two deferrals. NatWest's notes of the phone call of 24 November 2020

I am also satisfied that NatWest told Mr and Mrs O about the impact of the deferral on their credit files – and the potential impact of that on them in the phone calls of 19 and 20 November. It was reasonable for NatWest to take that information into account in deciding whether to offer Mr and Mrs O further credit.

Overall, on balance of probabilities, I consider it less likely that NatWest gave Mr and Mrs O any incorrect information about how the November 2020 payment deferral would operate and that it would affect their credit files and ability to get credit. I say that because they were given the correct information in the phone calls of 19 and 20 November. The notes of those

phone calls accurately reflect what was discussed. The note of the 24 November phone call said it told Mrs O of the impact of the further deferral and that interest would be charged on the arrears.

While I don't dispute what Mr and Mrs O have said, I have to take into account that the above statement was made by Mr O and it was Mrs O who spoke to NatWest – and that the statement was made in October 2021 – while we have call recordings with NatWest and notes from the time in question that don't support what Mr and Mrs O have said.

I note what Mr O has said about a note from NatWest that it had contacted him, when in fact it hadn't. He considers it follows that there was evidence NatWest's notes were not accurate. I don't think that changes anything. We have NatWest's notes of the recordings we do have. And they are a fair reflection of what was discussed. So even if what Mr O has said is correct, it does not mean all NatWest's phone notes are inaccurate.

In any event, I am satisfied that NatWest did not offer payment deferrals that operated in the way that Mr and Mrs O have told us they understood, bearing in mind they had "used up" their two Covid FCA deferrals. They could never have had a deferral that worked the way they say they understood. So I can't see how they could have avoided falling into arrears, bearing in mind they told NatWest they could not afford the payments that were due.

Vulnerability

I see no reason to reach different conclusions than I did in my provisional decision and for the same reasons.

NatWest knew that Mr and Mrs O had vulnerable children. It was not fair for it to block access to their bank account. Mr and Mrs O have told us when they could not access money to meet their children's need that caused them stress, panic and worry. I accept that this had a considerable short-term impact on them, bearing in mind what they have told us about their circumstances. It also appears that after agreeing to reinstate the overdraft and reissue cards, NatWest did not action that. I consider that NatWest should pay Mr and Mrs O £500 to reflect the distress and inconvenience the freezing of the bank account, failure to do what it had agreed had on them and not making adjustments in view of the family's vulnerability.

In my provisional decision I pointed out NatWest did not appear to have given us a full copy of its vulnerability policy – so I couldn't see what practical support it could have offered Mr and Mrs O. It has not given me a full copy of the policy or any further explanation.

However, the evidence I do have is that NatWest told Mr and Mrs O what they needed to do to have their vulnerability recorded in its final response of 3 October 2022. It said they hadn't taken the steps set out, so it hadn't done anything further. I asked Mr and Mrs O to confirm if they had taken those steps, but I can't see they have. So I can't say that NatWest should have done anything further in respect of their vulnerability.

NatWest has provided the terms and conditions for the bank account. They say that it can limit the use of the account if there is a change in Mr and Mrs O's financial circumstances and it reasonably believed that they may have difficulty in meeting their financial commitment. It has told us that was why it blocked the account. So it was entitled to do so in view of what it knew about Mr and Mrs O's financial circumstances – but it wasn't fair to do so in the individual circumstances of this case.

We don't have the credit card terms and conditions. In my experience they will likely include a similar term to the bank account allowing the account to be restricted. But in any event, I consider it was reasonable for NatWest to block the account.

Financial difficulty

There has clearly been some avoidable breakdown in communication here – and a failure to recognise or deal with Mr and Mrs O's family's vulnerability reasonably. I will deal with that elsewhere. But NatWest is required to treat Mr and Mrs O fairly when they were in financial difficulty. That will usually involve obtaining details of their income and expenditure and considering concessions to give them time or a plan to address the arrears. As far as I can see, NatWest has largely done that. I can't see that there was any other concessions or forbearance it ought reasonably to have offered Mr and Mrs O bearing in mind what we know about their circumstances.

There was no requirement for NatWest to give Mr and Mrs O a consolidation loan in these circumstances. I think the proposed compensation fairly compensates Mr and Mrs O if NatWest did not, as they said, reply to their request for such a loan.

Missed payments

Mr and Mrs O said they made the November 2021 payment but NatWest then said they'd not made that payment. When they challenged that, NatWest accepted it had made a mistake and would send a new payment plan, but they didn't hear anything. They then started receiving letters saying they'd missed the December 2021 payment and that the mortgage balance was now due.

NatWest has now given us its final response dated 19 April 2022 where it addressed this complaint. But this complaint was referred to us on 9 November 2022. That is more than six months after the date of the final response. So under our rules I can't consider it. I'm satisfied there were no exceptional circumstances that prevented Mr and Mrs O referring that complaint to us in time.

Mortgage balance

I understand why Mr and Mrs O are confused about their mortgage and arrears balance. But I'm afraid I don't consider that they have shown that it is incorrect. I will try and address the points they've made. But I note it is not for me to audit or check that the balance is incorrect. Rather, I weigh up the evidence I've been provided and decide what I think is fair and reasonable.

Mr and Mrs O said they thought they'd overpaid by over £5,000 from February 2021. But they have based that figure on the amount they have paid above a mortgage payment of £548. Their mortgage payments were always higher than that during the time in question. So that is not an accurate way to calculate how much they have "overpaid".

Mr and Mrs O have raised two specific points about information that NatWest used to justify the arrears balance in its final response. I agree that NatWest has not explained things very well.

For example, Mr and Mrs O said they made the February 2021 payment on 8 March 2021 – followed by March's payment on 29 March 2021. So they think NatWest was wrong to say they had missed the February 2021 payment – and that was included in the breakdown of arrears it included in its final response.

But those payments show on the mortgage statements that NatWest has provided – albeit that the payments were divided between the three sub-accounts. While it might not be strictly correct to say that the February 2021 payment was "missed" – it was made late.

Mr and Mrs O have also highlighted a payment of £655.27 on 10 August 2021. Again the statements show this has been allocated to the mortgage across the three sub-accounts. So NatWest was wrong to say in its final response that the August 2021 payment was unpaid.

So Mr and Mrs O are right that the way NatWest explained the arrears in its final response was incorrect or misleading. But it does not follow that the arrears balance is incorrect.

Mr and Mrs O also said they'd been making additional payments of over £100 a month for over two years and yet the arrears balance had only come down by around £700. Again, I'm only looking at the period up to November 2022 – so any points about the arrears balance after that would need to be a new complaint.

The balance is not calculated manually – and I can't see any evidence of any manual intervention by NatWest. As far as I can see, all of the payments Mr and Mrs O have made have been allocated to the mortgage.

For example, Mr and Mrs O said they could not understand why the arrears balance increased from £1,671.36 on 11 July 2021 to £2,032.22 on 11 October 2021. On the evidence I have that reflected that the payment due on 5 October 2021 was not made. There were also fees applied during that time.

I understand why Mr and Mrs O don't trust what NatWest has said. It has done a very bad job at dealing with this matter. I've carefully read everything they've provided and thought about it – even if I haven't specifically commented on a particular point, I can understand their confusion and NatWest ought to have done a better job of explaining the arrears balance. But that doesn't mean I can uphold this part of the complaint. I don't consider the evidence Mr and Mrs O have provided supports that the balance is wrong – and I don't consider that there is evidence of a clear error in the evidence it has given us.

Increase in mortgage payments

As explained above the mortgage payments increased at the end of the FCA deferrals and the November deferral. That was in line with the relevant rules at the time.

Mr and Mrs O said their mortgage payments increase by a total of £85.47. But that is what they agreed with NatWest to pay on top of the contractual amount to repay the arrears balance.

Contact

Other than the contact in November/December 2021 relating to the missed payments addressed above, I can't see that the contact from NatWest has been unfair or unreasonable. It is entitled to contact Mr and Mrs O regarding the arrears. And it is reasonable for it to warn that their home might be at risk.

NatWest accepted my provisional decision. Mr and Mrs O did not.

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've looked at everything again and in particular Mr and Mrs O's response to my provisional decision. Having done so, I see no reason to depart from the conclusions I reached in my second provisional decision. I will attempt to address Mr and Mrs O's response to that

decision.

There is nothing I can usefully add to what I have said about the missing phone call – we have done all we can to ask NatWest for a recording of the call, but it has told us it does not exist. The fact that there was a recording at some point does not mean that the call is still available. I am satisfied that I have awarded fair compensation to Mr and Mrs O for any distress caused by missing phone call. And I have enough information to reach a fair outcome.

I consider that on balance, it was more likely than not, that NatWest gave Mr and Mrs O the correct information about how the November payment deferral will work. I took into account the evidence Mr and Mrs O provided. But in my view the call recordings and NatWest's notes were more persuasive.

I'd explain again that my conclusions were reached on the balance of probabilities based on all of the evidence. I am not saying that it is beyond doubt that NatWest gave them the correct information. Rather, that the evidence we have makes it more likely than not that it did. Mr and Mrs O said that if I was correct that they could never have had a deferral that worked the way they wanted then why did NatWest tell Mrs O to speak to a different department when she specified the way she'd like to arrange a payment holiday. I don't see how this makes any difference to my conclusions.

Mr O said that I'd not put sufficient weight on the evidence that they'd provided to show that NatWest said it had spoken to them when it had not. I see no reason to reach different conclusions than I did in my second provisional decision – and I don't consider it follows that other notes made by NatWest are misleading. I note that I am not a regulator – I have no power to punish NatWest or its employees.

I would also add that even if NatWest had given Mr and Mrs O incorrect information – and for the avoidance of any doubt I consider that on balance it did not – we would not ask NatWest to honour the incorrect information. Instead we'd consider what Mr and Mrs O would likely have done had they been given the correct information. At the time there was no option for payment holiday or deferral that worked the way they said they understood. Bearing in mind they told NatWest they did not want to make a payment, it seems likely they would have ended up taking the deferral in any event.

I'm sorry if Mr and Mrs O missed it in my second provisional decision but I said, "*At the time it was in line with the [FCA] guidance for NatWest to recalculate the monthly payment in view of the increased mortgage balance because of the deferred payments.*"

I've looked closely at what Mr and Mrs O have said about the mortgage balance and the amount of the arrears. I've also looked again at all of the information that both sides have given us over the course of this complaint. Having done so, I am not persuaded that the balance or amount of arrears is wrong or that NatWest has not allocated all of the payments correctly to the mortgage.

I'm sorry to disappoint Mr and Mrs O again – but I have considered their complaint very carefully and looked into all of the points they have made. Having done so, I do not agree with some of the points they've made. It does not follow that I have not taken account of their evidence – rather it is that looking at *all* of the evidence we have, it does not in my view always support what they have said. Overall, I consider what I have proposed is a fair way to settle this complaint. It is for Mr and Mrs O to decide whether to accept my award in full and final settlement of their complaint. If they do not accept it, they will be free to take further action if they wish.

My final decision

My final decision is that National Westminster Bank Plc should pay Mr and Mrs O £900.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs O to accept or reject my decision before 17 May 2024.

Ken Rose
Ombudsman