

The complaint

Mr P is unhappy with how National Westminster Bank Plc (NatWest) dealt with his Subject Access Request. He says the response was late and didn't contain all the requested information. Mr P wants compensation for the trouble and upset this caused him.

What happened

Mr P had a number of accounts with NatWest for many years.

In February 2023 NatWest wrote to Mr P to let him know that it had decided to close his accounts and gave him 60 days' notice before doing so. NatWest said it had carried out a review and would no longer be able to provide certain banking products and services to him. The accounts were closed in April 2023.

Mr P made a request for a copy of his personal data (Data Subject Access Request-DSAR) in October 2023. He later complained and said NatWest was taking a long time to respond to his DSAR.

NatWest responded to the complaint. It said its decision to close the accounts was in line with its terms and conditions and that its decision remained. It said it raised Mr P's DSAR with the relevant team on 24 October 2023. Mr P said he wanted NatWest to explain why it decided to close his accounts.

NatWest told us it responded to Mr P's DSAR on 6 January 2024. NatWest accepted that it took too long to deal with Mr P's DSAR – and that it didn't respond within the required one month time frame as set out under General Data Protection Regulation. NatWest apologised for taking too long and explained that this was due to it dealing with higher than usual volumes of DSAR's. NatWest paid Mr P £75 compensation for the delays.

Mr P said the compensation didn't adequately reflect the amount of time he had to spend trying to resolve things with NatWest – he said he was constantly chasing the bank and pointing out its errors. And then he had to refer the matter to the Information Commissioner's Officer (ICO). Mr P says this meant he had to spend time away from his work. So, he wants £1,250 compensation based on his hourly working rate.

Unhappy with NatWest response, Mr P brought his complaint to our service. Mr P told us he wasn't happy with the documents provided. He said they didn't help resolve his complaint as there was nothing regarding NatWest's internal investigations which led to the closure of his accounts. Mr P said the DSAR response lacked details on a number of points, including NatWest's questioning Mr P's status as a potential politically exposed person (PEP) in 2019. Overall, Mr P said NatWest's response was unprofessional and woeful.

One of our investigators reviewed the complaint and said that NatWest had done enough to put things right, in respect of the delays in dealing with the DSAR. So, he didn't recommend NatWest needed to do anything further. Our investigator said NatWest is under no obligation to tell Mr P why it had decided to close his accounts. He also said that confidential

information would not have been disclosed to Mr P. And NatWest would only provide personal information it held about Mr P.

Mr P didn't agree with our investigator and asked for an ombudsman's decision. Mr P said he was entitled to see the information/personal data NatWest has about him especially bearing in mind that our organisation had been given access to it when looking into his complaint. He didn't feel the £75 offer of compensation was fair for the amount of trouble and upset he'd suffered.

Our investigator didn't change his view and explained that our rules allow us to receive information in confidence.

The matter was then passed to me to decide.

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.

There's no dispute that NatWest's service fell short. It has accepted that it took long to respond to Mr P's DSAR. To put things right NatWest has apologised and paid Mr P £75 compensation for any trouble and upset this caused him. Mr P says this isn't enough. He wants £1,250, which he has based on his hourly rate. He says that accepting £75 won't lead to NatWest learning from its mistakes.

Where there is no dispute about whether an error occurred, my role is to consider the impact of the error. I recognise it has been difficult for Mr P to separate the impact of the closure of his accounts and other issues in dispute. But it might be helpful if I start off by explaining that our service doesn't punish or fine businesses, and it's also not our place to say that a procedure the business follows is incorrect. Only the industry regulator, the Financial Conduct Authority (FCA), can do this.

Moving on to the DSAR, I should explain that it's not the role of our service to decide whether or not a business has breached data protection laws, which includes the content of the information disclosed in response to a DSAR - that's the role of the ICO. I can see that Mr P has already referred matters to the ICO and that they have looked into Mr P's complaint regarding the content of the DSAR. But I can look at whether a business has treated a customer fairly and reasonably when applying those regulations in their course of business.

Mr P made a DSAR to NatWest in October 2023, which NatWest accepts it didn't respond to until early January 2024. My understanding is that, under the relevant regulations, DSAR requests should be responded to without undue delay and at the latest within one month of receiving the request. NatWest agrees that it didn't adhere to this time limit. It has paid £75 compensation to Mr P for this delay. In the circumstances, I think this is fair and reasonable bearing in mind that the deadline was missed by more than two months. I've also borne in mind that Mr P's main concern isn't so much about the delay but about the content of NatWest's response.

I know Mr P is seeking more compensation based on his hourly rate for the amount of time he had to spend contacting NatWest. But I should explain that we don't usually award compensation on the basis of a complainant's usual business or professional hourly rate. That's not because we think a complainant's time has no value. But basing compensation on a person's business or professional hourly rate could suggest one person's free time is worth

more than another person's free time. And it might not reflect the true impact of the error on the complainant.

Mr P can charge his clients for his professional or business expertise at an hourly rate. But Mr P wasn't providing a business or professional service to NatWest. And he hasn't provided any evidence that contacting NatWest meant he was unable to carry out his usual work. So, it wouldn't be fair to award compensation for something there is no evidence of.

NatWest has already paid Mr P £75 compensation, and I think the amount it has paid is fair. So, I won't be asking NatWest to do anything more to resolve Mr P's complaint.

Lastly, Mr P says he is unhappy that the DSAR response he received from NatWest didn't include documents he would have wanted to see such as NatWest's investigations regarding his potential PEP status. He added that the information provided to him does not answer his question as to why his accounts were closed.

As I said above, it's not within my remit to look into the content of the DSAR response. That's the job of the ICO. But in terms of NatWest not sharing certain information or documentation with Mr P in general, what I will say is that I don't think NatWest is under any obligation to tell a customer what triggers a review or what leads to a closure of their account.

Furthermore, banks may have documents which are confidential for a number of reasons. NatWest said that it wasn't able to share any information which related to its investigation and the account closure due to it being sensitive. I think this is fair and reasonable in the circumstances. As our investigator said this information will have been shared with us and though I appreciate Mr P may find this frustrating I hope it gives him some reassurance that someone independent has also considered it.

Finally, I note that Mr P has indicated that he may wish to pursue the matter through other means, I can't advise him on how to go about doing that, but my decision brings to an end what we – as an informal dispute resolution service can do for him.

My final decision

For the reasons I've explained, my final decision is that I won't be asking NatWest to do anything more to resolve Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 18 September 2024.

Sharon Kerrison
Ombudsman