

The complaint

Mrs T has complained that National Westminster Bank Plc “NatWest” discriminated against her when she visited a NatWest branch.

What happened

On 30 October 2020 Mrs T attended a NatWest branch to pay a bill and to withdraw cash.

Mrs T says she first went to a ‘reception cashier’ to pay a bill. She says that whilst making the payment, the member of staff misheard the name of the payee, so Mrs T says she tried to show the member of staff the name of the payee. Mrs T says she was rudely told to get back behind the desk - even though there was a glass screen between them, and Mrs T had a face mask on at the time. Once the correct details were entered, the bill was paid.

Mrs T says she then joined a queue, to withdraw some cash from a cashier. Mrs T says there were two cashiers working at the time, each of them were serving a customer each. Mrs T says that whilst she was waiting behind a line, a white male entered the branch and stood behind her in the queue. Mrs T says that a white male member of staff instructed her to sit on a white chair in the corner of the bank. Mrs T asked why she had to do this and says she was told “because I told you to”. Mrs T says she did so, but then waited while the same member of staff was speaking to another customer.

Mrs T says that the lady who’d already served her asked if she could help. Mrs T says that she wanted to raise a complaint, as she couldn’t understand why she’d been told to sit down - but says she was told she would not get anywhere with it. The member of staff suggested Mrs T use online banking or ATMs so she can complete her transactions quickly and at her convenience. But Mrs T explained she didn’t want to, as she’d been the victim of fraud and so didn’t feel comfortable using online banking or ATMs. So Mrs T waited for a cashier to become available. Whilst in the queue, it seems that Mrs T then got into an disagreement with the white male member of staff, who then walked into the back office.

Mrs T says that when she was being served by the cashier, she repeated that she was unhappy with how the white male member of staff had treated her – who she says was loitering and listening to the conversation. Mrs T says the cashier didn’t comment on anything that she’d said.

After leaving the branch, Mrs T complained to NatWest.

NatWest responded to the complaint on 3 November 2020, but only addressed the initial interaction Mrs T had with the ‘reception cashier’. NatWest apologised for the level of service received and awarded Mrs T £50 compensation.

Mrs T responded to NatWest to say that it had not dealt with her complaint in its entirety. NatWest then sent another response on 13 November 2020. It apologised for Mrs T being moved around branch unnecessarily and being overlooked in the queue. However, NatWest didn’t find that the poor service Mrs T received was racially motivated. NatWest also apologised that Mrs T’s accusations of racism were not initially recorded when the complaint was first logged. NatWest awarded Mrs T a further £50, due to the added effort Mrs T went to get the complaint correctly logged.

Mrs T then sent an email on 13 November 2020 reiterating her complaint and NatWest responded on 17 November 2020 stating that the outcome it had reached in its final response letter of 13 November 2020 would remain unchanged.

Unhappy with NatWest's response, Mrs T referred her complaint to this service.

One of our investigators assessed the complaint, but they did not uphold it. As Mrs T disagreed with the investigator's conclusions, the matter was referred for an ombudsman's 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.

Having reviewed everything, I don't uphold this complaint. I will explain why.

Firstly, I'd like to make it clear that our service is unable to make findings on whether or not something constitutes discrimination under the Equality Act 2010 (or indeed under any other anti-discrimination legislation). This is because the Financial Ombudsman Service is an informal alternative to the courts.

If Mrs T wants a finding as to whether or not NatWest's actions constitute a breach of the Equality Act (or any other legislation), she will need to pursue it through the courts. This is because only a judge can give a formal decision on whether or not a piece of legislation has been breached. It is outside of this service's jurisdictional remit and therefore not something I can do within this decision.

All I can consider is whether or not the business has acted in a fair and reasonable manner in this matter. Although, to do that, I take a number of things - including the Equality Act 2010 and all the supporting information Mrs T has provided - into consideration.

Turning first to the interaction Mrs T had with the 'reception cashier', in summary it seems that Mrs T had got too close to the member of staff and the member of staff had asked Mrs T to stand back.

Mrs T has questioned why the member of staff did this, given that there was a screen between them and she had a face mask on. But given that we were still in the depths of a global pandemic at the time, I can appreciate why the member of staff may've been keen to enforce the social distancing policies that the UK Government had put in place.

In the circumstances, I can't reasonably say that NatWest treated Mrs T unfairly by asking her to step back from the cashier – regardless of whether she had a mask on or not. It does seem however, that the cashier may've been a bit abrupt with Mrs T – Mrs T says she shouted at her. It's not clear to me whether it was the case that the member of staff raised their voice to ensure that Mrs T could hear past the screen. But either way, I don't think this would warrant anything more than the apology from NatWest – and I can see that NatWest did apologise for this when it initially responded to the complaint and agreed to pay Mrs T £50 compensation.

In terms of Mrs T's complaint that she was asked to leave the queue to sit down and then other customers were allowed to be served ahead of her, it is difficult to determine what exactly happened.

I say this especially as I have been provided with differing testimonies i.e. Mrs T saying that she was being treated differently due to her race and sex, whereas NatWest staff say that

Mrs T may've been asked to sit down to comply with social distancing protocols. Also, after NatWest had issued its final response letter to the complaint, I understand Mrs T asked NatWest to provide the CCTV from the day she was in branch – but it never did. When we asked NatWest to provide its file for this complaint a number of months after the event, rather frustratingly, NatWest said it didn't have CCTV footage from the day. Although NatWest did add that even if it was available to be provided to this service, it said there are no microphones on its cameras. So we'd not be able to hear what everyone had said in any event. In such circumstances, where matters are in dispute and evidence is missing or incomplete, I have to consider what was most likely to have happened, based on everything that *is* available.

Having considered Mrs T's testimony and weighed this up with the staff testimony that NatWest has provided, I agree with the general conclusions that the investigator reached in their assessment.

Mrs T says she started queuing, only to then be told to take a seat. I understand that, because Mrs T was asked to sit down, this meant that a customer who entered the branch after she had started queuing, was served by the cashiers before her. Mrs T says that the customer was allowed to skip the queue and get served before her, because he was a white male.

Conversely, NatWest explained that because of social distancing, if people are waiting to be served by a cashier, they may be asked to wait outside. Presumably, this was to reduce the amount of people in the branch at any one time. However, Mrs T says that people were not queuing up outside the branch at the time.

Having weighed up the competing testimonies, I think it's more likely than not that the customer was served before Mrs T - not because of his race or sex or indeed because of Mrs T's sex or race - but because he had already been waiting in a queue outside the branch and was next in line to be served. I say this particularly because, although Mrs T says that there was no queue (either inside or outside), I think it's possible that one may've formed outside (that she was unaware of) whilst she was focused on paying her bill with the reception cashier.

From what I understand of the situation, it seems that Mrs T was asked to sit in a chair so that she could wait her turn (within the branch) in the cashier queue, rather than join a queue outside. However, I recognise that this wasn't explained to Mrs T at the time. So when Mrs T asked why she had to sit down, the member of staff's response of 'because I told you to' would not have been particularly helpful in the circumstances, if that is what was said to her.

I understand that when Mrs T spoke to the reception cashier, she says the cashier told her she could complain but it wouldn't get anywhere. It's difficult to know what exactly was said and why. But based on everything I have seen, it does seem that the members of staff thought that Mrs T was frustrated with the social distancing measures that were in place, and therefore explained that if she were to complain about them, she wouldn't succeed - given that the branch staff were obliged to follow such measures.

Having reviewed everything independently and impartially here, I think it's fair to say that things became heated in the branch that day. Mrs T was clearly aggravated by how the staff were dealing with her. For example, it's clear that Mrs T did not appreciate being told to stand back behind the desk and that she did not see a need to when there was a screen and she had a mask on. And Mrs T has told us that she accused the staff of lying; told them that she (as a customer) pays their wages; and demanded to see the social distancing rules that NatWest had in place. So, I think it's possible that the staff may've been somewhat dismissive of Mrs T's protestations - thinking she was just unhappy complying with the social distancing measures they had in place, rather than it being the case that she felt they were being applied inconsistently. If that was the case, this could explain why the members of staff did not then go on to elaborate why she'd been asked to sit down in the first place.

However, I recognise that NatWest didn't handle matters as well as it could've. NatWest acknowledge that the 'reception cashier' was unnecessarily abrupt with Mrs T. Also, when Mrs T asked why she was asked to sit down and she thought people were being served ahead of her, it seems that the staff didn't explain the situation to her – leading Mrs T to feel that she was being unfairly treated.

In the circumstances, I don't think the branch staff understood how their actions made Mrs T feel. And I'm sorry to hear about how this matter has impacted Mrs T. That being said, NatWest has apologised to Mrs T and paid her £100 to apologise for the level of service she received. Overall, based on everything I have seen, I think this is fair and reasonable in the circumstances.

My final decision

Because of the reasons given above, I don't think that NatWest needs to do anything further to put things right. I therefore don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 14 June 2024.

Thomas White
Ombudsman