

The complaint

Mr and Mrs H are complaining about National Westminster Bank Plc because they say it acted irresponsibly when giving them a loan they couldn't afford.

What happened

Following their application, in March 2023, NatWest gave Mr and Mrs H a loan for £23,850. It was repayable over five years at £555 per month based on an interest rate of 15.2%. Of this amount, £10,823 was used to clear Mrs H's existing loan with NatWest before the rest was advanced to them. I understand the last full repayment on the loan was made in July 2023.

After the complaint was referred to me, I issued my provisional decision setting out why I believed it should be upheld. My reasons were as follows:

Before lending to Mr and Mrs H, NatWest was required to carry out appropriate checks to ensure the repayments were affordable and sustainable. To decide whether this requirement was met, the key questions I need to consider are:

- Did NatWest complete reasonable and proportionate checks to establish that Mr and Mrs H would be able to repay the loan in a sustainable way?*
- If so, was the decision to lend fair and reasonable?*
- If not, what would reasonable and proportionate checks have discovered, and would the decision to lend have been fair and reasonable in light of that information?*

The rules, regulations and good industry practice in place at the time the loan was approved required NatWest to carry out a proportionate and borrower-focused assessment of whether Mr and Mrs H could afford the repayments. This assessment also had to consider whether the loan could be repaid sustainably. In practice this meant NatWest had to satisfy itself that making payments to the loan wouldn't cause undue difficulty or adverse consequences. In other words, it wasn't enough to simply think about the likelihood of them making payments, it had to consider the impact of the repayments on Mr and Mrs H.

The affordability assessment and associated checks also had to be proportionate to the specific circumstances. What constitutes proportionate checks depends on a number of factors including, but not limited to, the particular circumstances of the consumer (for example their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of the credit being considered. Even for the same customer, a proportionate check could be different for different applications.

NatWest has described the information it gathered to assess whether Mr and Mrs H's loan was affordable before it was approved. This included:

- information contained in their original application, including their income;
- information obtained from a credit reference agency (CRA), giving details of their existing credit arrangements and any past issues with credit, including missed payments and defaults; and
- an expenditure assessment using a combination of modelled data for key expenses, along with actual data from the CRA about the cost of their existing credit arrangements.

NatWest maintains its affordability assessments were proportionate to the loan being given and demonstrated it was affordable.

NatWest hasn't been able to provide details of the information provided at application or the CRA data obtained, which is disappointing given how recently the loan was agreed. Without this information, I can't agree the checks carried out were proportionate in this case. But, in any event, I think it's always likely that further checks would have been required given the size of the loan and the monthly repayments.

I can't know exactly what further checks NatWest might have carried out at the time, but I think a consideration of Mr and Mrs H's actual income and expenditure would have been reasonable. So we've obtained copies of their credit reports and bank statements for the period preceding the loan to establish what information could reasonably have been discovered.

A review of the credit reports shows Mr and Mrs H were already very heavily indebted. Between them, they had 10 open credit cards with outstanding balances worth more than £20,000 and overall debt totalling more than £46,000. By comparison, their bank statements show their net annual income – excluding disability living allowance that was paid for their children - was around £52,000. The effect of the new loan, even after a portion of the money was deducted to clear Mrs H's existing loan with NatWest, was to increase their overall debt to an amount greater than their annual income.

In addition, I think their bank statements show signs Mr and Mrs H were facing financial difficulty at this time. In a repeating pattern, their account was consistently overdrawn and only returned to a positive balance for a few days each month immediately after Mr H was paid before it fell back into overdraft again. The statements also appear to show a number of sizeable payments from family and friends, which supports Mr and Mrs H's comments that they were struggling to meet their financial commitments at this time.

If NatWest had seen this information, it's my view it shouldn't have lent further to Mr and Mrs H. In reaching this conclusion, I'm mindful a portion of the money was used to clear existing debt with NatWest. But even taking that into account, the loan increased the overall credit available to them by over £13,000 and I just don't see how it could reasonably have been concluded this was affordable if appropriate checks had been completed.

It's for these reasons that I'm currently proposing to uphold Mr and Mrs H's complaint.

NatWest accepted my provisional decision and Mr and Mrs H made no further comment.

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.

As neither party has made any further submissions in response to my provisional decision,

my findings haven't changed from those I set out previously.

Putting things right

The principal aim of any award I make must be to return Mr and Mrs H to the position they'd now be in but for the errors or inappropriate actions of NatWest. But that's not entirely possible here as the lending provided can't be undone.

Because I don't think NatWest should have lent to Mr and Mrs H, I don't think it's fair for them to pay interest or charges on the amount borrowed. But they have had use of the money that was lent, so I think it's fair they repay the amount borrowed (without the addition of interest or charges).

To put things right, NatWest should take the following steps:

- Calculate the total of all Mr and Mrs H's payments towards the loan, including all interest, fees, charges and insurances (not already refunded).
- If this exceeds the £23,850 borrowed, any excess above £23,850 should be paid to them with simple interest at 8% per year from the date of each overpayment to the date of settlement.

HM Revenue & Customs (HMRC) requires NatWest to deduct tax from any interest. It must provide Mr and Mrs H with a certificate showing how much tax has been deducted if they ask for one. If NatWest intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

- If the total of all Mr and Mrs H's payments doesn't exceed the £23,850 borrowed, NatWest should arrange an affordable payment plan with them for the shortfall.
- Remove any adverse information recorded on Mr and Mrs H's credit file relating to this loan, once any outstanding balance has been repaid.

If NatWest no longer owns the debt, it should liaise with whoever does to ensure any payments Mr and Mrs H have made since moving the account are factored into the calculation of the compensation that's due or the balance that remains outstanding.

I'm satisfied this represents a fair and reasonable settlement to this complaint.

My final decision

For the reasons I've explained, I'm upholding Mr and Mrs H's complaint. Subject to their acceptance, National Westminster Bank Plc should now put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 8 July 2024.

James Biles
Ombudsman