

The complaint

Mrs D complains that National Westminster Bank Plc has treated her business unprofessionally and unfairly. This began with a review of her business accounts, but resulted in her bounce back loan being put into default and the business current account closed. She says the bank's actions resulted in the closure of the business and caused her husband great distress, contributing to his illness.

Mrs D's business was originally a partnership and the complaint was brought by her husband and business partner, who has recently passed away.

What happened

Mr and Mrs D ran a business as business partners. They opened a business current account in 2013 under a trading name.

In March 2021, Mr and Mrs D took out a bounce back loan ("BBL") for £15,000.

During 2020, NatWest began a business review of their account. This meant that Mr and Mrs D were asked to answer various questions about their business via an online portal. At each stage in the review, NatWest gave the partners a deadline and warned them that if the deadline wasn't met, their account would be frozen.

The partners ran several different businesses during this period and say they informed the bank about the changes of trading name and address.

The business review went on for several years. On at least six occasions, the partnership bank account was restricted for a period, which meant that payments could not be made in or out.

One of the restricted periods was during September and October 2022. Two BBL repayments were missed during this time, because the restrictions on the account prevented the direct debits from being paid.

In January 2023, the bank issued a formal demand for repayment of the BBL in full. In June 2023, the loan was passed to the bank's recoveries function. The current account was also transferred, so the partners no longer had use of it. In July 2023, their accounts were transferred to a third party debt collection agency.

Mr and Mrs D made several complaints about the freezing of their account, the length of time the review had taken and the transfer to recoveries. They also complained about the length of time they had spent on the phone. NatWest upheld the latter point and paid them £125 in compensation. But the bank maintained that it had followed all its procedures correctly.

Mr and Mrs D asked for the Financial Ombudsman to look into the matter. I issued a provisional decision on 4 June 2024. I concluded that the bank had made a number of errors in this case, which had had a considerable detrimental effect on the partners' business and caused great distress. My findings were:

Did NatWest do anything wrong in the course of conducting a business profile review?

NatWest has a number of legal and regulatory obligations to which it must adhere in its provision of banking facilities. To ensure it complies with these, it has a set of procedures in place for monitoring accounts and ensuring it has up to date information on them.

NatWest has explained that it was fulfilling these obligations when completing its business profile review for the partners' business account. Having reviewed the bank's actions, I'm satisfied that was the case. And the terms and conditions of the account allowed NatWest to review it in that way.

The terms and conditions also confirmed that NatWest could restrict or close the account by giving two months' notice or – in certain situations – immediately. I've seen that the bank provided the relevant notice of its intended actions with the account in many letters, starting with 15 September 2020, when it began its review. At this point, for example, it said it would restrict the account if it didn't receive the requested information within two months – that is, by 14 November 2020. The bank sent a reminder a month later, but I can see that, before the November deadline, the partners started the process of updating their business profile as requested, so the bank set a new deadline for January.

This process continued for several years, with the partners providing some information, but the bank then asking for additional details. The evidence shows that the partners often missed the deadlines set, so there were several instances when the account was restricted, although these were generally resolved the same day or within one or two days. On each occasion, I can see that the bank had written setting out the deadline, and then sent a reminder. So I don't consider that the bank acted unfairly by following its process and imposing the restrictions.

I can see that in the course of this review, Mr D informed the bank about at least two changes of trading name, which in turn prompted further questions from the bank. Given that Mrs D has told us about four different successive businesses run by her and her husband, I think it's likely that this caused the review to take longer, as the bank would reasonably have needed information on each different business to meet its regulatory requirements.

The records show that there was one period where there were longer restrictions on the account, which ran from 6 September 2022 to 27 October 2022. This is because there were outstanding queries regarding the business name, Mrs D's identification and the nature of business. The bank's records indicate that Mr and Mrs D didn't contact them until 27 October, because Mr D was very ill with Covid. He was able to answer some of the bank's questions on that day and the restrictions were lifted again.

It's unclear to me from the bank's records whether the business review was ever completed. I think it was probably superseded by the bank's decision to transfer the accounts to its recoveries department.

In summary, although the review went on for a very long time, I don't think this was due to an error on NatWest's part. I think it reflected a combination of Mr and Mrs D's slow responses (partly due to illness) and that several changes of trading name and address caused further questions.

Did NatWest act fairly in putting the accounts in default and transferring them to recoveries?

Unfortunately, although I don't consider the bank did anything wrong in imposing restrictions on the account in September and October 2022, this action resulted in two BBL repayments being missed.

My starting point here is that Mr and Mrs D had an obligation to ensure their loan was up-to-date. However, having listened to Mr D's phone calls with the bank, it's clear to me that he didn't understand that he needed to take any action to clear the arrears. He thought as there were plenty of funds in the business account, there shouldn't be any problem. I don't think the bank did enough to explain to him that the partners needed to clear the arrears themselves, and that if they didn't, the bank would consider it an event of default.

The British Business Bank's principles for recoveries state that, where the loan would have been classed as regulated consumer lending were it not a BBL 9 (and hence exempt), banks should follow the rules on arrears and recoveries set out in the Financial Conduct Authority's Consumer Credit Sourcebook (known as "CONC"). I think these should therefore have been applied in Mr and Mrs D's case and I'm not persuaded that they were. CONC 7 says, amongst other things that banks should get in touch with borrowers who miss payments and demonstrate an empathetic approach to them.

I am mindful here that the bank's notes from September 2022 show that it recorded that at least one of the partners was vulnerable. So I think this suggests that extra care should have been taken to demonstrate an empathetic approach.

The evidence shows that Mr D had a conversation with the bank around October 2022, which led NatWest to conclude (incorrectly) that the partnership was no longer trading. This resulted in the bank transferring the partnership's accounts to its specialised business management ("SBM") area, a department for accounts that required extra attention. This department tried to phone and sent two letters asking the partners to get in touch without mentioning what the issue was.

Mr D also spoke to the bank in December 2022. I've listened to this phone call and he clearly confirms that the partnership is still trading (and points out that this is evident from the bank account). The bank gives him some information about the PAYG options on the BBL, but it's clear from the call that he doesn't see the relevance of this. At the time, the current account had a healthy credit balance, so he sees no need for repayment holidays. This conversation, in my view, provided an opportunity for the bank to point out that action was required to clear the arrears. But it didn't do so. Neither have I seen any letters or emails that explained this.

On 13 January 2023, the bank sent each partner two identical letters. One was a formal demand for the BBL, a legal document which states that, following a default, the entire loan is now due in full. The other one was a letter that quoted the account number of the business current account and said:

"we are looking to remove the banking facilities on the following account(s) due to the excess on your sole account(s)...if you are able to clear the excess on your sole account(s) within 60 days and there are no further breaches of terms and conditions the above-mentioned account(s) will remain open".

This second letter was, in my view, extremely unclear. As far as I'm aware, neither partner had a "sole" account. The business current account was at that time over £4,000 in credit (and had an available overdraft limit), so there was no excess to clear. Mr D rang the bank on 23 January 2023 and it is apparent from the call that he was bewildered by the letter, as all his accounts were in credit. The bank was unable to offer him any explanation on that call.

In April 2023, a SBM agent rang Mr D, but it was about renewing the overdraft limit. There was no mention of closing the account or of the BBL arrears.

Given that there were several phone calls during this period, it's clear that the partners weren't avoiding the bank or failing to engage. In most of these calls, Mr D was more focussed on his more pressing problem, that he was unable to make payments using his business bank card. But I think these conversations were points at which a specialist department should have had a more useful conversation with Mr D.

The bank didn't in fact, close the business account when the notice expired. But in June 2023, the accounts were transferred to NatWest's recoveries function. This meant that the partners lost all use of the bank account. The bank didn't explain why it had taken this action at this point and it didn't give any notice. The current account was in credit and BBL payments were being made, so I can only presume it was as a result of the two missed BBL payments from the previous year.

My conclusion is that the bank did not communicate adequately regarding the arrears, nor did it apply the principles of CONC 7 to the partners' accounts. I think a more empathetic approach and clearer communication would have led to the arrears being cleared with no need for a formal demand or depriving the partners of access to a bank account.

Did NatWest otherwise provide a good service to the partners?

There are two issues that I will consider in this section, because they were raised repeatedly by the partners. The first issue is that the partners' bank card was clearly not allowing them to make payments for an extended period. The evidence suggests that this was unconnected to the business profile review process.

I can see that Mr D made repeated efforts to resolve this issue, spending large amounts of time on the phone being transferred from one department to another, without ever getting through to anyone who could help him. As far as I can see, the issue was never resolved and I think this was poor service on the part of the bank. Mr D explained more than once on the phone that the inability to pay by card was having a major impact on the partners' business, as they needed to place orders with their suppliers over the phone. I don't think there is any more he could have done to put this right.

The second issue relates to changes of address. Mr D said frequently in his phone calls to the bank that he had tried repeatedly to change the name and address on the business accounts, both in branches and on the phone, and had provided the paperwork to do so. He said he had been assured in branch that the name had been changed, only to discover later that it had not. Mrs D has also told us the same thing.

I know that the bank has said that it has found no evidence of these requests, but I am minded to accept this testimony. Both partners have said the same thing more than once. Mr D also mentioned it on the phone and in his complaints. It was also apparent when he failed security on a call, as a result of not knowing which former name and address the bank had recorded.

I can also see that the business profile review team were clearly well aware of the changes of name and had accepted them and used them. I say this because letters regarding the profile review were originally addressed to the name under which the account was first opened (the name that the bank has continued to use on all other communication) in 2020/early 2021, then they were changed around March 2021 to a new name and in early 2023, they were changed to another name and address.

It seems to me that if one department of the bank were using a new business name and address, then other parts of the bank should have been doing the same. So I think this was an example of poor service by NatWest, which caused the partners some inconvenience and frustration.

Summary and putting things right

As I have explained above, my provisional conclusion is that the bank has done a number of things wrong in this case. I think these errors had a considerable detrimental effect on the partners' business, damaging their reputation and resulting in their suppliers changing their terms of trade. I think they also caused great distress, which impacted Mr D's mental health.

I know that the partners felt that the bank's business profile review was unreasonable as well, so in their view, they had been very poorly treated by the bank since 2020. But I haven't found that the bank did anything wrong in that review. I think the problems were more recent than that.

I also realise that Mr D felt that the bank had effectively put them out of business by removing their bank account. And Mrs D feels the bank is responsible for leaving her £20,000 in debt. I haven't seen enough evidence to go this far, as I can't confirm that there weren't other factors involved. Neither have I seen that the partners tried to mitigate their loss by seeking a new bank account elsewhere. But I am satisfied that the bank's action had a significant adverse impact.

Although I think it's likely that a default could have been avoided – at least at that time – if the bank had acted differently, the business closed in July 2023 and Mrs D is now in considerable financial difficulty. So there's no point in me requiring the bank to reopen the accounts at this stage. Neither do I think Mrs D would be able to provide evidence to support a consequential loss claim.

That leaves compensation for distress and inconvenience. It's very clear to me that both partners were greatly distressed by the bank's actions. I have listened to many call recordings (although I believe there were more) where Mr D is trying very hard to sort things out and being met with consistently poor service from the bank. I can understand why Mrs D believes that this contributed to his illness.

We publish information about our approach to awards for distress and inconvenience on our website at <https://www.financial-ombudsman.org.uk/consumers/expect/compensation-for-distress-or-inconvenience>. I think Mrs D's distress here was substantial. She has been left in financial hardship and without a business that might have provided an income. I think it's clear that some at least of her current predicament could have been prevented if the bank had provided a better service and communicated clearly.

It is impossible for me to put an accurate value on the distress and inconvenience caused in this sad case. But having thought about it at some length, I've provisionally concluded that it is appropriate to award compensation at the higher end of our awards and direct NatWest to pay Mrs D £5,000 for the impact of their actions.

NatWest responded to agree to my provisional decision. Mrs D replied to say that NatWest were still sending correspondence that was addressed to a business they'd left in 2016. She also said that she was suffering from depression and struggling with what had happened.

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 so, and in the absence of new evidence or arguments, I haven't changed my provisional conclusion. I think NatWest's errors in this case caused considerable distress to both partners and that a substantial award for distress and inconvenience is therefore appropriate.

I note that Mrs D has asked what will happen next with her bounce back loan. This is a matter for the bank but I would recommend that NatWest gets in touch with Mrs D swiftly after this decision to agree a way forward.

Putting things right

As I said in my provisional decision, it's very clear to me that both partners were greatly distressed by the bank's actions and Mrs D remains so. I think that some at least of her current financial position could have been prevented if the bank had provided a better service and communicated clearly.

I haven't been persuaded to change my provisional view in this sad case. My decision remains that it is appropriate to award compensation at the higher end of our awards for distress and inconvenience and direct NatWest to pay Mrs D £5,000 for the impact of their actions.

My final decision

I uphold this complaint and direct National Westminster Bank Plc to arrange to pay Mrs D £5,000 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 9 July 2024.

Louise Bardell
Ombudsman