

The complaint

Mr and Mrs H complain about the actions of National Westminster Bank Plc (“NatWest”) when seeking possession of their property, which they feel were unjustified. Mr and Mrs H are also unhappy that NatWest wouldn’t agree to return the property to them once the eviction had taken place, despite having funds available to clear the arrears.

What happened

Following advice from a broker, Mr and Mrs H took out a mortgage with NatWest in July 2017. They borrowed £110,995 due to be repaid over a term of 11 years, with initial monthly payments – based on their initial five-year fixed rate – of £933.96.

Unfortunately, Mr H lost his job in 2018. Following this the contractual monthly payments were not always made in full and on time, with many payments being missed from April 2018 onwards. The arrears position of Mr and Mrs H’s account grew worse and led to NatWest seeking litigation action.

A possession order was granted by the Court in September 2019 and NatWest sought to evict Mr and Mrs H from the mortgaged property in 2020. At this point, Mr and Mrs H’s arrears were equal to more than 12 contractual monthly payments. However, an arrangement was agreed in March 2020 for Mr and Mrs H to pay £1,100 for six months, and eviction didn’t take place. I note that Mr H had also gained new employment around this time.

Following this, NatWest didn’t receive any payments towards Mr and Mrs H’s mortgage, and it sought to evict Mr and Mrs H again in April 2022. By this point, it’s said the arrears were equal to around 38 contractual monthly payments. NatWest agreed to cancel eviction at this time due to Mr and Mrs H’s wider circumstances involving family members living in their property. The eviction process was initiated again in August 2022, but it was cancelled at this time following lump sum payments totalling around £40,000 being made to Mr and Mrs H’s mortgage.

A cheque for £64,000 was also received by NatWest in August 2022 and Mr and Mrs H’s account was initially adjusted to take this payment into account. NatWest sent Mr and Mrs H a letter on 30 August 2022 saying it’d received this payment of £64,000, which had reduced their mortgage balance to £3,265.23 and their contractual monthly payment reduced to £55.80. However, the cheque was returned unpaid the next day, meaning Mr and Mrs H’s mortgage balance was just over £67,000. The contractual monthly payment also increased to over £1,000. NatWest has said it made several attempts using a number of contact methods to notify Mr and Mrs H of this in the months that followed. NatWest spoke to Mr H on the phone on 6 December 2022 but he was unable to speak at the time and said he’d call back, but NatWest says it didn’t receive a call from Mr H. In the meantime, Mr and Mrs H had been – and continued to – maintain the monthly payment of £55.80.

NatWest sent a “pre-eviction” letter to Mr H dated 21 January 2023, which said NatWest was actively considering whether to enforce the Possession Order and to start the eviction process again. NatWest has said two further letters were sent to Mr and Mrs H – another pre-eviction letter and a letter to initiate contact – along with a quarterly arrears statement sent in February 2023.

Mr and Mrs H complained to NatWest on 9 May 2023 as they felt the upcoming scheduled eviction was unjustified. They said they'd paid £64,000 towards the mortgage since clearing the arrears in 2022, so they only had a small balance, and their monthly payments were £55.80.

NatWest didn't agree. It said the cheque payment of £64,000 had been returned unpaid meaning the contractual monthly payment due was over £1,000. It said it had attempted to contact Mr and Mrs H several times about this but because arrears continued to accumulate, this led to a further eviction being scheduled. NatWest accepted that it'd made an error in initially telling Mr and Mrs H the £64,000 cheque had cleared and offered to pay them £150 in recognition of any distress and inconvenience caused. NatWest said eviction would continue unless Mr and Mrs H repaid £9,726.69 of arrears or were able to supply evidence that the £64,000 left the account and was paid to NatWest.

Mr and Mrs H provided a bank transfer receipt to NatWest on 16 May 2023, showing funds were being sent to them from overseas. They said once the funds had been received, they would use these funds to clear the outstanding arrears. NatWest said that a payment would need to be made to clear the arrears before 10am that day, or a final payment arrangement would need to be agreed – with evidence it'd be affordable, and the first payment being made before 10am – for the eviction to be cancelled. Mr H said they could afford to make a payment of £1,000, potentially £1,100 at a stretch on the day. But, as NatWest had calculated the required payment to be £1,372.72, it didn't agree to stop the eviction, which ultimately took place later that day.

Mr and Mrs H contacted NatWest on 17 and 18 May 2023 and told it that they'd received the funds from overseas and were now able to repay the arrears. NatWest said the remaining balance of the mortgage would need to be repaid in full, for the property to be handed back to Mr and Mrs H. As Mr and Mrs H were unable to do that, the property remained in NatWest's possession.

Mr and Mrs H complained to NatWest that it wouldn't return the property to them if they repaid the arrears in full and came to an arrangement. NatWest re-iterated its position – that the mortgage balance would need to be repaid in full for the property to be returned to Mr and Mrs H. It also told Mr and Mrs H how they could access their possessions remaining in the property.

Mr and Mrs H asked the Financial Ombudsman Service to look into their complaint. Our Investigator said that NatWest had taken reasonable steps to rectify its error – in relation to the £64,000 cheque – and when trying to engage with Mr and Mrs H. She didn't think NatWest had acted unfairly in pursuing litigation action. Mr and Mrs H didn't agree, so they asked for an Ombudsman to re-consider the complaint.

My provisional decision

I didn't think NatWest had acted fairly by continuing with the eviction process, when considering all the circumstances, so I issued a provisional decision. I proposed that NatWest should give the property back to Mr and Mrs H, return their possessions, and make good any changes or damages that have occurred to the property, as a result of NatWest and its agent's actions. I also proposed that NatWest should compensate Mr and Mrs H further for the non-financial impact this matter has had on them. I said:

I should start by setting out that I have not considered any issues Mr and Mrs H have referred to, which took place after NatWest's response to their complaint(s) dated 19 May 2023 – unless they're relevant to the outcome of this complaint. The Financial Ombudsman Service doesn't provide an open-ended review of ongoing events. So, if Mr and Mrs H haven't already done so, they'll first need to raise their concerns with NatWest. If, once they've done that, they'd like the Financial Ombudsman Service to investigate their concerns, they can refer them to us as a new case. This includes Mr and Mrs H's concerns about a letter being sent to them relating to another party.

Were NatWest's actions to evict Mr and Mrs H fair and reasonable?

The crux of Mr and Mrs H's concerns is that NatWest's actions to evict them from their property in May 2023 were unjustified, and premature. They had tried to come to an arrangement with NatWest on the day of the scheduled eviction, but despite providing evidence funds would soon be available to clear the outstanding arrears, NatWest evicted them from their property. When the funds became available the day after eviction, Mr and Mrs H again attempted to reach an arrangement with NatWest – including repaying the arrears – but it wouldn't agree to return the property to them.

NatWest has said that its decision to proceed with eviction in May 2023 took into account several factors. These included the history of missed payments, lack of engagement from Mr and Mrs H to address the arrears, and the conduct of the account following previously attempted evictions. It said that considering the overall conduct of the account, it indicated there was an affordability issue and therefore NatWest has a duty to stop any long-term damage. NatWest doesn't dispute that it prematurely told Mr and Mrs H that the £64,000 cheque had been successfully credited to their mortgage, including informing them that their monthly payment would be £55.80. However, it made several attempts to contact Mr and Mrs H about this and as the cheque was provided by a family member, it feels Mr and Mrs H could have checked the payment had been made.

I have considered the history of Mr and Mrs H's account and I note that since the mortgage was taken out in 2017, many of the contractual monthly payments were not made – this is both before and after evictions have been attempted. The starting point here, however, is that Mr and Mrs H made payments totalling £40,000 to clear the arrears balance in August 2022, at which time a planned eviction was cancelled. A cheque for a payment of £64,000 was also provided to NatWest and it made an error by telling Mr and Mrs H prematurely this payment had been successful.

After being told by NatWest that the £64,000 payment had cleared and that their monthly payments would be £55.80, Mr and Mrs H made these payments monthly. Unfortunately, the cheque had not cleared, and I've seen no supporting evidence to show otherwise. This meant that the actual monthly payment NatWest required Mr and Mrs H to make was over £1,000 more. As Mr and Mrs H continued to make payments of £55.80, the arrears balance quickly grew.

I have considered NatWest's records and I can see it made several attempts to contact Mr and Mrs H to discuss the true position of the account – the actual required monthly payment and that the account was now in arrears. It attempted to make contact in several ways by phone, text message and in writing. The notes show that NatWest was able to reach Mr H over the phone in December 2022 and it was agreed that he'd call back. But I can see no record of Mr and Mrs H contacting NatWest until after notice of the planned eviction had been sent.

When Mr and Mrs H contacted NatWest by email on 9 May 2023, they referred to the previous payments that'd been made to clear the arrears and reduce the account balance – including the cheque for £64,000 and how the monthly payments had reduced to £55.80. When taking this into account, Mr and Mrs H were unsure why NatWest was now seeking eviction, when they'd been maintaining the payments they'd been told to make.

There is no dispute that NatWest made an error in relation to the £64,000 cheque. The question here is did NatWest then do enough to make Mr and Mrs H aware of what had happened? And, either way, did it give fair and reasonable consideration to Mr and Mrs H's requests to stop eviction?

It's clear NatWest made several attempts to contact Mr and Mrs H by a number of different methods. Although that correspondence doesn't set out that there was an

issue with the cheque from August 2022 specifically, I note that arrears statements were sent which showed the payments Mr and Mrs H were making were insufficient. I've not seen anything to suggest Mr and Mrs H weren't receiving this correspondence. They did, after all, contact NatWest after receiving an eviction notice and had been communicating with NatWest prior to August 2022. Despite this, they did not engage with NatWest until a week before eviction was due to take place, leaving very little time for the matter to be resolved.

NatWest did make an error by incorrectly confirming the £64,000 payment had been credited to Mr and Mrs H's mortgage account, and this led, at least initially, to Mr and Mrs H making a lower payment than was actually required. It made several attempts to try and contact Mr and Mrs H to discuss this through a number of methods, which in isolation may be considered reasonable. However, I consider NatWest could have been clearer in its correspondence to tell Mr and Mrs H exactly what the issue was – that the cheque payment was unsuccessful and the impact of that. I can't see that it explained this in any of the correspondence it sent to Mr and Mrs H. However, I'm not persuaded that this would have changed what happened overall, in terms of whether Mr and Mrs H would have engaged with NatWest, particularly when considering the contact history.

It could also be argued that as the cheque was being provided by a family member, it would be clear to the family member, and by association to Mr and Mrs H, that a payment for £64,000 hadn't been successful. And that it's possible Mr and Mrs H were therefore aware of this. Either way though, I don't consider it was unfair for NatWest to begin eviction proceedings when it did. This is because the position of the account was worsening at a rapid rate and no contact had been received from Mr and Mrs H, despite several attempts from NatWest.

This isn't the end of the matter though. I've also considered whether NatWest gave fair and reasonable consideration to Mr and Mrs H's request to stop eviction. There are several factors to consider here including, but not limited to:

- The account history showed arrears spanning several years and it was again in arrears by several months, which in isolation might suggest circumstances hadn't improved for Mr and Mrs H.
- The first contact NatWest had received from Mr and Mrs H to resolve the matter was one week before the eviction was due to take place – not leaving much time for alternatives to be considered.
- NatWest had calculated the minimum monthly payment it'd consider accepting for an arrangement to be put in place (to repay the mortgage and clear the arrears) was more than Mr and Mrs H could afford on the day of eviction. But this didn't take into account the payment Mr and Mrs H were intending to make to clear the arrears.
- Mr and Mrs H had arranged for funds to be sent to them by a friend/family member from overseas and were expecting to receive them soon. This amount would be sufficient to clear the arrears balance of £9,726.69, however, the funds wouldn't be available until after the scheduled eviction.

The relevant rules and guidance say, among other things, that a lender must not repossess the mortgaged property unless all other reasonable attempts to resolve the position have failed. In other words, repossession should be a last resort. Here, I'm not persuaded NatWest considered all reasonable attempts to resolve the matter, before deciding to enforce the court order.

I can see that from NatWest's perspective, the conduct of Mr and Mrs H's mortgage account raises concerns. And I agree that it shouldn't allow a situation to grow worse

where it's clear that the mortgage is unaffordable for the borrower. But once the position was made clear to Mr and Mrs H, they looked for a way to resolve the matter so that they wouldn't be evicted from their property. They provided evidence of funds being sent to them to enable them to do this and offered to make a payment of up to £1,100. They also provided details of their income and expenditure, as requested, in order for an arrangement to be put in place.

NatWest considered this at the time but said it couldn't accept Mr and Mrs H's proposals because (i) the potential initial payment of up to £1,100 wouldn't be enough to cover the minimum payment it was willing to accept (inclusive of a payment to reduce the arrears) and, (ii) although money was being transferred to Mr and Mrs H, it required payment to be made to it and cleared – evidence a transfer was being made wasn't enough for it to stop eviction.

I appreciate NatWest has considered the history of the account when making this decision. But, in considering Mr and Mrs H's situation when taking into account all the circumstances, I'm currently minded to say it's decision to continue with eviction at this point was unreasonable. Mr and Mrs H had said they'd make a payment on the day of eviction that was, at most, around £300 less than the amount NatWest had calculated (to incorporate a payment towards the arrears). Mr and Mrs H also provided evidence that funds were being sent to them by bank transfer. It wasn't clear exactly when those funds would arrive, but it was evident the transfer had been initiated. And, Mr and Mrs H had previously paid large lump sums towards their mortgage when the eviction process had been started, which I'm persuaded added weight to this being a possibility in May 2023.

I don't think, when being presented with evidence it's possible the arrears would be cleared on receipt of a bank transfer that was already initiated, along with Mr and Mrs H offering to make a payment of nearly the required monthly amount, suggests that eviction was carried out as a last resort. I have seen evidence of the bank transfer having been initiated (which NatWest had also been provided) and I have no reason to doubt the funds would not be received into the mortgage account once the transfer was completed. I'm provisionally minded to say that it would have been fair, at this point, for NatWest to have cancelled the eviction, to allow Mr and Mrs H a chance for the funds to be received and to explore their options with NatWest. This is keeping in mind that the mortgage balance would have reduced, following repayment of the arrears, and so their monthly payment would not have needed to increase to the level NatWest had calculated on 16 May 2023.

I can appreciate from NatWest's point of view that due to the history of the account; it was only prepared to offer the two options previously set out. But I don't think this gave fair consideration to all the circumstances at the time, including the mistake it'd made when confirming the wrong contractual monthly payment due in August 2022. Mr and Mrs H were making a proposal that, although I understand the funds were not immediately available, they were likely to credit the account within a few days – which is what happened. And the submissions provided suggest Mr and Mrs H might have been able to make an affordable proposal (once the lump sum had been paid) to meet their monthly payments, after repayment of the arrears.

I consider that NatWest should have given Mr and Mrs H more time to work with it at this point, before deciding whether it was fair to proceed with eviction. Instead, it left Mr and Mrs H without the opportunity to put their proposal into action and gave them no choice but to seek alternative accommodation at short notice for them and their child. Mr and Mrs H have described the impact this has caused, not only incurring financial losses but they've said this has greatly affected them and their health, having to change their lifestyle.

Putting things right

I am minded to direct NatWest to give Mr and Mrs H their property back and at NatWest's expense, make good any changes or damages to the property – and return Mr and Mrs H's possessions – that have occurred as a result of NatWest and its agent's actions. As I think it was reasonable for NatWest to start the eviction process in 2023, I don't consider it should refund any costs incurred and added to Mr and Mrs H's mortgage as a result of starting the eviction process. Instead, it should consider if these costs would have changed if it'd cancelled the eviction on the day it was due and, where the costs would have changed, it should amend the amount applied to the account accordingly. It should also refund any costs incurred from taking possession of the property, such as – but not limited to – removal of possessions, disconnecting utilities, required tradesman costs and home visit appointments. And it should cover the costs of reversing these actions, to return the property to the position it was in prior to eviction, including the cost of returning Mr and Mrs H's possessions to the property. As the property has been left empty now for some time, I consider this should include the cost of arranging for the property to be cleaned.

The situation has had a significant impact on Mr and Mrs H. They've said the funds they received from overseas, and more, has been spent on the accommodation costs they've incurred because of NatWest's actions. So, I provisionally consider that NatWest should re-work the mortgage account as if Mr and Mrs H had made the payment of £9,726.69 once they had confirmed to NatWest the funds they were waiting for had been received. Mr and Mrs H will need to provide clear evidence of the overseas payment being credited to their bank account.

Additionally, subject to acceptable supporting evidence being provided by Mr and Mrs H of the costs they've incurred and paid, NatWest should:

- Calculate the amount Mr and Mrs H have spent on accommodation (subject to evidence of those costs being met being provided by Mr and Mrs H) since eviction took place (and until Mr and Mrs H are able to get back into their property), minus £9,726.69 (A). This is on the condition of Mr and Mrs H providing evidence that they have spent this amount of money on accommodation
- It should then calculate the amount Mr and Mrs H would have paid during that time, had they met their contractual monthly payments (B).
- If "B" is equal to the same or more than "A", NatWest should apply that amount ("B") to the mortgage account, re-worked as if they had been made as monthly payments to reduce the balance and interest charged. If "B" is higher than "A" then Mr and Mrs H will need to make up the difference as these are payments that they would have made if nothing had gone wrong. If "A" is equal to more than "B", then NatWest should re-work the account in the same way, but any amount left over should be paid to Mr and Mrs H along with 8% simple interest from the date of loss to the date of settlement*.

If Mr and Mrs H feel they have incurred other financial losses as a result of the eviction then, where it can be evidenced these costs are as a result of NatWest and its agent's actions, I'm minded to direct NatWest to cover those too. Mr and Mrs H will need to provide evidence, such as invoices and proof of payment for all costs they incurred and paid, so this can be taken into account. Costs that they would have incurred whether the eviction took place or not, will not be included.

I've considered the non-financial impact this matter has had on Mr and Mrs H. They've said it's affected them emotionally, as well as impacting their physical and mental health. There's also the reputational damage this matter has had on Mr and Mrs H. Ultimately, their neighbours would have been aware of their eviction from the

property and Mr and Mrs H, and their child, have been left to live in alternative accommodation, worried about what might happen to their property and possessions. I think the level of disruption to Mr and Mrs H's lives and the embarrassment they've been caused – which I feel could have been avoided – needs to be recognised. I am therefore minded to direct NatWest to pay Mr and Mrs H £1,500 for the trouble and upset they have been caused. This is inclusive of the £150 NatWest had previously offered.

Finally, going forward, NatWest and Mr and Mrs H will need to work with each other to come to an affordable arrangement – where that's possible – for Mr and Mrs H to maintain the payments on their account and, where any arrears remain, to repay the arrears.

Mr and Mrs H must remember that they entered into a contract with NatWest and NatWest is entitled to expect payments to be made each month, in accordance with that contract.

If Mr and Mrs H's account falls back into arrears, this decision does not prevent NatWest from taking further litigation action in the future.

* If NatWest considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from the interest refund, it should tell Mr and Mrs H how much it has taken off. It should also give Mr and Mrs H a tax deduction certificate if they ask for one, so they can reclaim the tax from HMRC if appropriate.

I invited Mr and Mrs H and NatWest to let me have any further comments or evidence they wanted me to consider before I make my final decision.

Mr and Mrs H said they've incurred £24,142.61 in temporary accommodation costs to date, which they estimate to be an average cost of £63.53 per night – not inclusive of costs incurred for food or other consumables. They have also said that their child has stayed at school as a boarder as he's needed stability during his A-levels. They've said, "We reserve an option on any charges that may arise from this". They've referred to previous correspondence within which they have referred to costs they've incurred, and that it's difficult for them to fully assess costs to return to the property without access to it – something they say NatWest has refused. Finally, they have re-iterated the distress, inconvenience, and embarrassment this matter has caused.

NatWest has said that it can arrange for the property and belongings to be returned to Mr and Mrs H and that it will agree to cover the costs incurred after it took possession of the property, including the costs incurred (or that will be incurred) for:

- Five house sittings (which were to give Mr and Mrs H access to the property).
- Storage of Mr and Mrs H's belongings.
- Returning Mr and Mrs H's belongings to the property.
- Reconnecting the utilities at the property.

However, it said it had to carry out essential works to the property in relation to the guttering and roof repairs, which had existing pre-possession damage. And it considers that had it not carried out these works during its possession of the property, it's something that Mr and Mrs H would have needed to do – and so, it does not think these costs should be removed, in terms of what Mr and Mrs H owe. The costs of these works total £3,744.

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.

Both parties appear to have accepted my provisional decision but have made additional submissions in relation to the proposed redress. I see no reason to depart from my provisional decision overall, including what NatWest should do to put things right. However, I've responded to the points raised by both parties below, to provide further clarity.

Along with evidence of the £9,726.69 transfer Mr and Mrs H received, they will also need to provide evidence to NatWest – for example, in the form of invoices and account statements – of all the additional costs they've incurred for:

- Accommodation costs including any school boarding costs incurred post eviction (where evidence can be provided, they otherwise wouldn't have been incurred but for the eviction), to the date the property is handed back.
- Other additional costs that they would not have incurred but for the eviction taking place – for example, Mr and Mrs H have referred to the additional cost of food and other consumables during this period.

To be clear, my decision is that NatWest should cover the *additional* costs that have been incurred but for the eviction taking place. Mr and Mrs H would always have incurred costs for things such as food and other consumables. The additional costs would, therefore, be the difference between the costs that would have been incurred and the (reasonable) costs that have been incurred. I consider it would be reasonable for NatWest to use national statistics data when calculating the costs Mr and Mrs H would likely have incurred – for example, on expenditure such as food and utility bills, the latter of which they have not had to pay for. There will also be other costs Mr and Mrs H have not had to pay since the eviction, such as council tax, and it wouldn't be unreasonable for NatWest to also take this into account.

In relation to school boarding costs, Mr and Mrs H have explained that their child has been undergoing the final period of education before their A-levels, and that to ensure stability, they have arranged for school boarding. I do not find it unreasonable that Mr and Mrs H have taken these steps while being homeless and living in hotels and other temporary accommodation. This is an important part of a child's education, and I don't think Mr and Mrs H took unreasonable steps, considering the circumstances. I consider it would be fair for NatWest to cover these costs, where, as above, it can be evidenced firstly that these costs have been incurred and, secondly, that these costs wouldn't have been incurred, but for the eviction.

At this time, it's unclear whether the school will charge Mr and Mrs H for the school boarding. If no cost is incurred for the boarding, or if it was not for the period between the eviction and the date on which the property is returned to Mr and Mrs H, then NatWest will not need to pay anything towards this. For avoidance of doubt, Mr and Mrs H will need to provide supporting evidence – showing when the boarding was arranged and the period it covered – for NatWest to consider if they are costs it needs to cover, in line with this decision.

I've also considered that NatWest has spent £3,744 on essential property repairs after the property was taken into possession. I consider it fair that these costs have been incurred, to ensure the property didn't deteriorate and that it's something Mr and Mrs H would have needed to resolve, had eviction not taken place. I don't think it's unreasonable to say that a homeowner would want – and indeed – need to keep their property in a fit state of repair. I say this not just considering they'd need to live in a habitable property, but also to meet the terms of their mortgage agreement and other agreements, such as a home insurance policy. So, I won't be directing NatWest to remove these costs from what is owed by Mr and Mrs H.

NatWest has said it can provide access to the property for Mr and Mrs H to assess its condition before the property is returned to them. Both parties will need to meaningfully engage with each other to arrange a suitable date and time for this to take place. If Mr and Mrs H consider there has been post possession damage caused by NatWest (and its agents) to the property or their possessions, then they will need to provide supporting evidence of that – such as photographs from before and after possession took place.

NatWest has also said that it considers all costs incurred up to and including the day of possession are justified, as Mr and Mrs H weren't able to address the arrears until after the eviction date. I have already set out my findings in relation to this point. For ease of reference, I said:

“As I think it was reasonable for NatWest to start the eviction process in 2023, I don't consider it should refund any costs incurred and added to Mr and Mrs H's mortgage as a result of starting the eviction process. Instead, it should consider if these costs would have changed if it'd cancelled the eviction on the day it was due and, where the costs would have changed, it should amend the amount applied to the account accordingly.”

I see no reason to depart from my provisional decision in relation to this, nor my findings supporting it. If the costs would have been reduced had NatWest cancelled the eviction process on the day it was due, then it should amend the amount that's been applied to the account. If it finds that the costs would not have reduced, then no further adjustment needs to be made in relation to that.

I think it's important to re-iterate that, going forward, NatWest and Mr and Mrs H will need to work with each other to come to an affordable arrangement – where that's possible – for Mr and Mrs H to maintain the payments on their account and, where any arrears remain, to repay the arrears.

Mr and Mrs H must remember that they entered into a contract with NatWest and NatWest is entitled to expect payments to be made each month, in accordance with that contract. This decision doesn't change that.

If Mr and Mrs H's account falls back into arrears, this decision also does not prevent NatWest from taking further litigation action in the future.

My final decision

My final decision is that I uphold this complaint. National Westminster Bank Plc must:

- Return the property and possessions to Mr and Mrs H at NatWest's expense, making good any changes or damages to the property and Mr and Mrs H's possessions because of the eviction.
- Where there's a difference in litigation costs (where they would have been lower) if the eviction had been cancelled on the day it was due, NatWest should amend the amount applied to the account accordingly.
- Refund any costs incurred from taking possession of the property and for reversing these actions, including:
 - o Five house sittings (which were to give Mr and Mrs H access to the property).
 - o Storage of Mr and Mrs H's belongings.
 - o Returning Mr and Mrs H's belongings to the property.
 - o Reconnecting the utilities at the property.
 - o Cleaning of the property prior to its return to Mr and Mrs H.
- Re-work the mortgage account as if Mr and Mrs H had made the payment of £9,726.69 once they had confirmed to NatWest the funds they were waiting for had been received. Mr and Mrs H will need to provide clear evidence of the overseas payment being credited to their bank account.
- Pay Mr and Mrs H a further £1,500 (inclusive of the £150 NatWest has previously offered) for the trouble and upset they've experienced.

Additionally, subject to acceptable supporting evidence being provided by Mr and Mrs H of the costs they've incurred and paid, NatWest should:

- Calculate the amount Mr and Mrs H have spent on accommodation including school boarding (subject to evidence of those costs being met and/or charged being provided by Mr and Mrs H) since eviction took place (and until Mr and Mrs H are able to get back into their property), minus £9,726.69 (A). This is on the condition of Mr and Mrs H providing evidence that they have spent this amount of money on accommodation
- It should then calculate the amount Mr and Mrs H would have paid during that time, had they met their contractual monthly payments (B).
- If "B" is equal to the same or more than "A", NatWest should apply that amount ("B") to the mortgage account, re-worked as if they had been made as monthly payments to reduce the balance and interest charged. If "B" is higher than "A" then Mr and Mrs H will need to make up the difference as these are payments that they would have made if nothing had gone wrong. If "A" is equal to more than "B", then NatWest should re-work the account in the same way, but any amount left over should be paid to Mr and Mrs H along with 8% simple interest from the date of loss to the date of settlement*.
- If Mr and Mrs H feel they have incurred other financial losses as a result of the eviction (not included above or below) then, where it can be evidenced these costs are as a result of NatWest and its agent's actions, NatWest should cover those too. First, by reducing the arrears position if there still is one, and second, by paying the remaining amount to Mr and Mrs H directly – along with 8% simple interest from the date of loss to the date of settlement*. Mr and Mrs H will need to provide evidence, such as invoices and proof of payment for all costs they incurred and paid, so this can be taken into account. Costs that they would have incurred whether the eviction took place or not, will not be included.

* If NatWest considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from the interest refund, it should tell Mr and Mrs H how much it has taken off. It should also give Mr and Mrs H a tax deduction certificate if they ask for one, so they can reclaim the tax from HMRC if appropriate.

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 19 August 2024.

Maria Drury
Ombudsman