

The complaint

Mr N is unhappy with the service he's received from National Westminster Bank Plc, trading as Ulster Bank, surrounding the defaulting of his account.

What happened

Mr N held a personal loan with Ulster Bank ("UB") which fell into arrears. On 11 February, UB sent a default notice to Mr N that gave him until 16 March to contact UB and arrange an arrears repayment plan with them. Mr N didn't contact UB within the time given for him to do so in the default notice. And so on 16 March, UB issued a formal demand to Mr N which gave him until 26 March to pay the full outstanding balance of the loan.

Mr N called UB on 25 March, the day before the deadline given on the formal demand, and it was confirmed to him that the full balance of the loan was now due. A 30-day hold was applied by UB at this time to give Mr N more time to arrange the repayment.

Mr N then visited a UB branch on 28 March and asked to set up an arrears repayment plan to clear the outstanding arrears so that he could continue making monthly payments towards the loan in line with loan agreement. And UB confirmed to Mr N at that time that he would be able to set up an arrears repayment plan as he was requesting.

Mr N then spoke with UB again on 12 April and agreed an arrears repayment plan with them. Mr N then made a payment of approximately £760 to clear the arrears that had accrued on his loan. However, shortly afterwards, Mr N found that UB had defaulted his loan for non-payment and had transferred the account debt to a debt recovery agency ("DRA"). Mr N wasn't happy about this, so he raised a complaint.

UB responded to Mr N and explained that their staff had made a mistake when telling him that he could come to an arrears repayment arrangement after the formal demand had been sent. UB also explained that because Mr N hadn't cleared the full outstanding balance of the loan as per the requirement of the formal demand, that UB had defaulted the loan.

UB apologised to Mr N for incorrectly telling him that he could make an arrears repayment arrangement, and they paid £100 to him as compensation for any trouble or upset he may have incurred as a result. Mr N wasn't satisfied with UB's response, so he referred his complaint to this service.

One of our investigators looked at this complaint and liaised with Mr N and UB about it. During their review, UB reassessed their position on this complaint and offered a further £150 compensation to Mr N for the incorrect information he'd received. Our investigator felt that UB's increased offer of compensation represented a fair outcome to what had happened. However, Mr N disagreed, and he was particularly unhappy that UB had passed his debt to a DRA. So, the matter was escalated to an ombudsman for a final 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.

I issued a provisional decision on this complaint on 7 November 2024 as follows:

I can appreciate both sides of this dispute. On the one hand, UB have acted in accordance with the formal demand that they issued and have apologised to Mr N for giving him a false expectation that an arrears repayment plan would be acceptable to them following the issuance of the formal demand. Conversely, Mr N made a plea to UB while in branch to be allowed to repay his arrears and continue with the contractual loan payments as per the loan agreement, and that plea was accepted by UB staff.

Accordingly, I consider this complaint to be finely balanced. However, after careful consideration, my provisional decision is that I'll be upholding this complaint in Mr N's favour and instructing UB to give him an opportunity to return the loan to the position that it should now be in, had it not been defaulted and had Mr N continued making his contractual monthly payments as per the loan agreement.

One reason I've taken this position is because when UB issued the formal demand to Mr N on 16 March, Mr N was two months in arrears on his loan (totalling £507.94). This was because Mr N hadn't made the November and December 2023 payments. But Mr N had made the January, February, and March 2024 payments, which I feel indicates that Mr N wasn't in a hopeless financial position and instead suggests that Mr N might have been able to recover the position of his loan.

Additionally, while Mr N did then miss the payment due at the start of April, taking his total arrears to £761.91, he then made a payment of £767.97 on 12 April – after having his plea to be allowed to pay off his loan arrears accepted by UB's branch staff. And this means that when UB moved to default Mr N's loan because he hadn't repaid the full outstanding balance in line with the formal demand, the loan wasn't in arrears as per the original loan payment schedule at that time.

If UB had told Mr N when he went into UB branch and asked to be allowed to clear his loan arrears and continue with the loan payments that this wouldn't be possible, and that his loan would be defaulted unless he cleared the full outstanding balance as per the formal demand, then I would have no issue with UB defaulting Mr N's loan here.

But because UB staff told Mr N that he could clear the loan arrears, and because Mr N then did so, and given that the loan statements don't suggest to me that Mr N would most likely have been unable to keep up with his loan payments moving forwards after clearing those arrears, I feel that Mr N should be given an opportunity to recover the position of his loan.

However, this is dependent on Mr N being able to make a payment to bring the loan up to date. This means that Mr N would need to make a lump sum payment to clear the May, June, July, August, September, October, and November payments that he hasn't made. And Mr N would also then need to resume the contractual monthly payments as per the loan agreement from the start of December onwards.

The cumulative total of the seven missed payments listed above (May through November) is £1,777.79, and Mr N would then be required to pay a further £253.97 on Monday 2 December (by direct debit if the direct debit can be set back up in time for that date).

If Mr N can make this £1,777.79 payment to bring his loan up to date by Friday 29 November, and can then commit to making the contractual payments moving forwards, then I instruct UB to rescind the defaulting of Mr N's loan and report to the credit reference agencies that Mr N's loan arrears were cleared on 12 April 2024. UB should then administer

Mr N's loan as if it had been up to date without any missed payments from 12 April onwards.

I'd like to encourage Mr N to consider his financial position before agreeing with this provisional decision. This is because if Mr N is unable to make the loan payments moving forwards, so that a similar scenario happens in the future as happened between November and March, then it may be the case that UB could commence collections and recoveries actions against Mr N once again. And, if this does happen, and if that process results in the defaulting of Mr N's loan again, then that default would remain on Mr N's credit file for six years from that future date.

Finally, in their discussions with our investigator, UB offered to pay a further £150 compensation to Mr N for his being given an incorrect expectation while in branch. However, I won't be expecting UB to honour that offer if the outcome to this complaint is that Mr N's default is rescinded in line with what I've described above, as I feel that Mr N being given the opportunity to have the default rescinded is by itself a fair outcome to this complaint.

Mr N responded to my provisional decision and confirmed that he was happy to accept it and confirmed that he would make a lump sum payment to clear the loan payments that he'd missed by 29 November and would ensure that the loans payment moving forwards, beginning with the payment scheduled for 2 December, are available for UB to collect.

UB also responded to my provisional decision and questioned whether their branch staff on 28 March had told Mr N that he could set up a repayment plan for the arrears as I'd stated, noting that the correct process would have been for the branch staff to refer Mr N to UB's collections department.

Upon review, UB are correct, and there are system notes from 28 March that confirm Mr N was referred to UB's collections department while in branch on that day, and that it was UB's collections department that told Mr N that he could set up a plan to clear the arrears with UB. However, the net result here is the same, being that UB did tell Mr N on 28 March that he could set up an arrears repayment plan, which Mr N then did.

UB have also asked me not to state the exact figure that Mr N would need to repay, as they intend to add interest to the arrears for the period that the payments haven't been made. However, I feel it's clear that the spirit of my decision is that no arrears interest should be added by UB. This is because I feel that Mr N would have made the loan payments and that the only reason he didn't do so was because UB defaulted his account.

As such, I will be stating the exact figure that Mr N needs to repay as a lump sum, and that exact figure is £1,777.79 – the cumulative total of the seven loan payments of £253.97 each that Mr N has missed, without any arrears interest added to that amount.

All of which means that my final decision here is that I uphold this complaint against UB on the basis described in my provisional decision above.

To reiterate, if Mr N makes the £1,777.79 payment by 29 November, UB must consider Mr N to have cleared his account arrears in full as of 12 April 2024 and to have been up to date with his payments and not in arrears on the loan from that date. And UB must amend their reporting to the credit reference agencies accordingly.

Finally, it would also be expected that if Mr N does pay the £1,777.79 to bring his loan up to date, that UB would contact Mr N to arrange the reinstatement of the direct debit for the future ongoing loan payments.

Mr N may want to consider paying the £253.97 payment due at the beginning of December manually, if the direct debit can't be reinstated in time for that payment to be taken.

In his response to this service, Mr N suggested that he include the December payment with the lump sum payment to be made before 29 November, to allow time for the direct debit to be reset for the start of January. This seems reasonable to me, and if Mr N wants to avail of this option, I calculate the total amount payable to be eight instances of £253.97 which equates to £2,031.76.

Putting things right

If Mr N can make this £1,777.79 payment to bring his loan up to date by Friday 29 November, then UB must rescind the defaulting of Mr N's loan and report to the credit reference agencies that Mr N's loan arrears were cleared on 12 April 2024 and that his loan has been up to date since that date.

UB must then administer Mr N's loan as if it had been up to date without any missed payments from 12 April 2024 onwards.

My final decision

My final decision is that I uphold this complaint against National Westminster Bank Plc, trading as Ulster Bank, on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 16 December 2024.

Paul Cooper
Ombudsman