

The complaint

This complaint is about a mortgage Miss W holds, jointly with her husband Mr M, with National Westminster Bank Plc (NatWest).

In essence, the complaint is about how NatWest has treated Miss W and Mr M since early 2023, when they engaged the services of a debt charity to engage with creditors. Miss W has multiple health issues and has been in long-standing financial hardship. Although they are paying what they can when they can, Miss W says NatWest has harassed and threatened them.

What happened

By way of a provisional decision dated 17 December 2024, I set out my provisional conclusions on this complaint. The following is an extract from the provisional decision.

“The above summary is in my own words. The basic background to this complaint is well known to both parties so I won’t repeat all the details here. Instead I’ll give a brief summary, rounding the figures, and then focus on giving the reasons for my decision. If I don’t mention something, it won’t be because I’ve ignored it. It’ll be because I didn’t think it was material to the outcome of the complaint.

The mortgage started in January 1996, with an opening balance of £33,250 and an initial five-year fixed rate of 7.90%. Currently, it’s on a fixed rate of 2.53%, which is due to expire in January 2025. The mortgage payments have fallen behind periodically, chiefly as a result of Miss W’s health problems, and NatWest has previously capitalised arrears. The most recent capitalisation was in 2020, since when fresh arrears have built up.

In February 2023, a debt charity I’ll call S prepared an income and expenditure analysis (I&E) which suggested a formal payment arrangement might be affordable. In April 2023, NatWest took another I&E by phone which showed an income shortfall, rendering any payment arrangement unaffordable.

Contact between the parties over subsequent months was fractured and unproductive, resulting in NatWest engaging a debt recovery firm I’ll call AL to act as intermediary. Miss W complained that NatWest’s repeated calls and letters were harassing and threatening when she was always trying to pay whatever she could. NatWest rejected the complaint, and when it was referred here, our investigator didn’t think the business’ actions were unfair.

Miss W asked for the complaint to be reviewed by an ombudsman.

At my direction, the investigator made further enquiries of both parties about the adaptations Miss W told us had been made to the mortgaged property by her local authority, to reflect her health needs. This was in order to help me judge how the adaptations might affect the settlement of the complaint. Also at my direction, the

investigator explained that it was necessary for Mr M, as joint borrower on the mortgage, to join Miss W in the complaint.

At the time of writing, we've only had a substantive reply from NatWest. Miss W has sadly experienced another serious health episode, from which she is still recovering. We've told Miss W we're happy for her to take the time she needs but at the same time reiterated that whilst she does that, Mr M must join the complaint without further delay if we are to continue to look into it.

In the meantime, I have considered NatWest's reply to my further enquiries. Based on what the business has told us, I'm satisfied I have enough information to proceed with a decision now, rather than trouble Miss W to supply further information at what is clearly a difficult time for her.

I've no wish to rush Miss W or put pressure on her, but I have to keep in mind that NatWest is also a party to this complaint and I have to give equal consideration to both sides. NatWest too wants to see the case resolved sooner rather than later, and has put forward a proposal to try and achieve that. It's therefore appropriate in my view that I try to expedite a resolution, as doing so should be to everyone's mutual benefit.

What follows is my provisional decision on how this complaint should be resolved. Rather than give Miss W more time to provide information that I now no longer need, it gives her more time to consider and reply to a proposal for resolving the complaint altogether.

But that's with one important caveat. My proposals for resolving the complaint are entirely predicated on Mr M joining the complaint. I'll set out more details below on what would happen if he did not.

What I've provisionally found – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we work within the rules of the ombudsman service and the remit those rules give us. We don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As a starting point, I am in general agreement with our investigator that NatWest's actions since February 2023, whilst clearly unwelcome, haven't been unfair. Taking a step back and looking at everything dispassionately, I find that the business has done its best to navigate a fine line and achieve a balancing act between the conflicting objectives of treating its customers fairly and recovering money that is legitimately owed to it.

A key point here is the adaptations that have been made to the mortgaged property to make it suited to Miss W's specific requirements. Whilst I accept Miss W believes she

told NatWest about these, NatWest's own contact records suggest the first it knew of the changes was when we recently challenged it on how they would impact on any consideration it might be giving to starting possession proceedings.

NatWest's response was to propose a way forward that would entail extending the mortgage term by seven years and capitalising the current arrears. In the case of the capitalisation proposal this would be slightly ahead of NatWest's normal policy of requiring at least five years between successive capitalisations. At the current interest rate, NatWest estimates the term extension alone would result in a monthly payment of around £222; combined with capitalisation, the figure would be closer to £243.

Both sums would be lower than what is required currently, but as I said that's based on the current fixed rate, which expires on 31 January 2025. NatWest has suggested arranging a telephone appointment to discuss setting a new interest rate to run from 1 February 2025. I'll come back to that in a moment. Meanwhile, the paperwork for the terms extension, capitalisation and rate switch, if agreed, would need to be signed by both borrowers.

Given all that has gone before, I consider this to be a positive development and a genuine attempt on NatWest's part to find a resolution that is beneficial to all parties going forwards. I appreciate a phone appointment to agree a new interest rate might be a daunting prospect for Miss W, given her neurological issues. But it's an important stage in a process that offers the best chance of a good outcome for her and Mr M. If Miss W doesn't feel able to participate in the call herself, perhaps Mr M could do so instead. Alternatively, it might be possible for them to appoint someone to act as their agent; perhaps someone from S, their debt charity, could help.

There's one last point I need to make, however, and that is to revert to the matter of Mr M joining the complaint. He and Miss W have been aware since the investigator issued her view in July 2024 that he might need to join the complaint if it was referred for review by an ombudsman. Miss W told us then that he could join if necessary, and we confirmed that it was necessary on 29 November 2024. At the time of writing, Mr M has not yet returned the complaint form we sent for him to sign.

I'm aware that during that period, Miss W has been seriously ill. Aside from her being incapacitated, I've no doubt the stress and worry about what was happening to Miss W will have weighed on Mr M's mind. But the outcome of this complaint has a direct bearing on their home remaining their home, and my remit to deal with the complaint is dependent on Mr M signing a form and returning it to the investigator by whatever means necessary.

If he doesn't do so, whatever the reason might be, then I shall have to invoke a provision in our rules that allows me to conclude that the complaint cannot continue to be looked at by this service at all. This is called dismissal without consideration of the merits.

Our rules are set out in a document drafted and maintained by the FCA. The document is called DISP, and the relevant section is DISP 3.3.4, which sets out the grounds for a complaint to be dismissed without consideration of the merits. One such ground is where a complaint involves more than one eligible complainant, has been referred without the consent of the other complainant, and the Ombudsman considers that it would be inappropriate to deal with the complaint without that consent.

That's very much the case here. Any order or award I might make against NatWest in a decision on the case would affect Mr M just as much as it would Miss W, and at present, I don't have his consent to do that. So, in order that there should be no ambiguity, the continued involvement of the Financial Ombudsman Service in this complaint is dependent on Mr M joining the complaint."

I gave the parties until 14 January 2025 to add anything further before I finalised my decision; both have done so already.

Firstly, Mr M has joined the complaint. Secondly, Miss W sent in a response which mostly reiterated existing points about her health problems. She made some new points, the main thrust of which I summarise below.

- NatWest was informed on the phone of the changes to the house, and of the charge registered against the property title at HM Land Registry. Call recordings would prove this.
- NatWest hasn't offered to capitalise the arrears and extend the term; the first she has heard of it is my provisional decision. She has agreed a new interest rate, but thinks NatWest has used an unfair valuation.
- NatWest hasn't acknowledged that they pay extra whenever they can; it reports on their credit files that every payment is in default.

NatWest confirmed that a new interest rate of 4.66% has been agreed. It can't confirm the exact monthly payment on the new rate after capitalisation and the term extension have taken place, but has indicated the payment is likely to be in the region of £280. NatWest has also said that a search of the property title at Land Registry showed no entry registered by the local authority.

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, I'm not persuaded to depart from my provisional decision. I'll explain why.

I'll begin by saying I have not ignored Miss W's health situation, and whilst I appreciate she feels otherwise, from looking at the contact history, I don't believe NatWest has either. It's largely because of Miss W's health situation – and the adaptations to the property – that NatWest has made the offer of arrears capitalisation and a term extension. The reason Miss W heard about it for the first time in my provisional decision is because NatWest took the decision recently and relayed it to us as part of its response to our investigation into the complaint.

The terms on which the new fixed rate has been set aren't part of this complaint. For completeness, however, I'd observe that NatWest has used an estimated valuation of around £118,000, giving a loan-to-value ratio (LTV) of just under 26%. LTVs usually only become a relevant factor in setting rates when they are above 50%.

Without seeing copies of Miss W and Mr M's credit files, I can't know exactly what is being reported. What I can say is that in general terms, a lender's reporting will reflect the overall status of a mortgage. Where a borrower is in arrears, it reports the amount of arrears in terms of the number of monthly payments represented by the overdue balance, up to a maximum of six months' worth. If a payment arrangement is in place, a lender reports that too alongside the equivalent number of months in arrears. In itself, that's standard industry

practice. It's worth also noting that not all credit reference agencies display the information in the same way, and lenders have no control over that.

NatWest is right to say nothing is recorded against the property by the local authority. We carried out our own search of Land Registry records, which revealed the same result. That's not to say I disbelieve what Miss W has told us.

Without knowing when the local authority registered its interest, I have to consider the possibility that the ten-year "clawback" period has already expired and the entry has been removed. If that's because the adaptations took place more than ten years ago, then that might explain why NatWest doesn't have a recording of a telephone call in which Miss W told it about them.

Either way, it's not something on which the outcome of the complaint turns because, for all the reasons I have already explained, NatWest's current proposals for the mortgage going forward are fair and reasonable.

My final decision

My final decision is that this complaint should be resolved by National Westminster Bank Plc doing the following:

- extending the current mortgage term by seven years;
- capitalising the existing arrears; and
- implementing the new fixed rate of 4.66% as agreed.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Miss W to accept or reject my decision before 3 February 2025.

Jeff Parrington

Ombudsman