

The complaint

Mr L complains that National Westminster Bank Public Limited Company (NatWest) failed to monitor his account in line with regulations which led to him paying high charges in the last six years.

What happened

Mr L has had a current account with NatWest for many years, on which he's had an overdraft since 2010. On 16 July 2024, Mr L complained to NatWest. He said it had failed to properly monitor his account for signs of financial difficulty which he believes is contrary to various regulations it is obliged to follow. He explained his income varies significantly due to the nature of his work and the *"cost of living crisis and the fall out from COVID"* meant he has suffered a substantial drop in income. He has also experienced a family bereavement which has impacted his ability to work.

Mr L says as a result of the circumstances above, he had become reliant on his overdraft to pay for his day-to-day expenditure. He said he has to borrow from family and friends in order to meet his regular commitments, and the charges and interest being levied on his account are taking *"a large portion"* of his income so he is unable to return his account to credit. He said, *"the very little that I have earned whilst in my overdraft of £3,500 has been eaten up every month by the charges imposed on me which has not allowed me to make any changes in my financial situation"*.

This has led to Mr L becoming trapped in a cycle of debt he can't break out of. Mr L asked NatWest to refund charges and interest for the six years prior to his complaint being raised, which he says amounted to almost £4,000.

NatWest looked into Mr L's complaint and issued a final response letter. It didn't provide much detail in its letter and simply said there was no bank error and provided some general commentary about what an overdraft is and how Mr L could get in touch to discuss his finances if he wished. It said an overdraft is a facility which, *"could help you manage your money if you have to cover a short-term expense such as an unexpected bill."*

As he was unhappy with NatWest's response, Mr L referred his complaint to our service, asking us to look at the activity which took place in the last six years. Our investigator looked into the complaint and noted that on 16 July 2018 (six years before Mr L raised his complaint) his overdraft limit was £2,800, and £2,500 from 20 July 2018. From there Mr L's overdraft limit had been increased and decreased in that time and had reached as high as £4,500, reduced to £2,000 and, at the time of the complaint was £3,500.

Our investigator noted that Mr L's income was generally between £1,000 and £2,000 so she felt it was irresponsible for NatWest to have agreed overdraft limits as high as it did. She said Mr L's account showed signs of financial difficulties which ought to have led NatWest to intervene to help him. Our investigator said NatWest should have noticed the signs of financial difficulty before increasing Mr L's limit beyond £2,500, and it should therefore refund interest and charges levied on balances over that figure from July 2018 to date.

Mr L thanked our investigator for her work which I've taken to be acceptance of her recommendation. NatWest didn't agree however. It said it had written to Mr L about his overdraft usage, but he had failed to contact it, and there was a period of time when he had savings sufficient to cover the overdraft, so he could have repaid it in full. As there was no agreement, the complaint has been passed to me for review.

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.

In July 2018, the regulations applicable to this complaint – which had been in place for some time - were set out by the industry regulator, the Financial Conduct Authority, in its Consumer Credit Sourcebook (CONC). CONC 6.7.2R(1) said *"A firm must monitor a customer's repayment record and take appropriate action where there are signs of actual or possible repayment difficulties."*

From December 2019 onwards, CONC 5D set out specific rules regarding repeat overdraft usage. It says lenders should monitor customers overdrafts and identify those for whom there are signs of actual or potential financial difficulties. CONC 5D.2.3(5) lists a number of factors which may be a sign of actual or potential financial difficulties such as:

- (b) an upward trend in a customer's use of the overdraft over time, having regard to one or both of the following:
 - (i) the number of days of use per month; and
 - (ii) the value of the customer's borrowing.
- (c) changes to the regular credits or debits to the personal current account, which may indicate a fall in disposable income or increased expenditure;
- (d) use of other products which may indicate a fall in disposable income or growing indebtedness (for example, a reduction in the balance of a savings account, or an increase in the outstanding balance on another credit product) of which the firm is aware or ought reasonably to be aware from information in its possession;
- (e) the use of an unarranged overdraft associated with the personal current account, especially if becoming larger, more sustained or more frequent over time;

CONC 5D.2.3(6) says *"a customer may in fact be in actual or potential financial difficulties even if none of the factors described above is present"*.

The regulations go on to set out what a lender should do where it identifies actual or potential financial difficulties. They say that if a customer doesn't respond to written communication, the bank *"must take reasonable steps to contact the customer to discuss their situation"* and sets out steps it should consider to support the customer.

Mr L's account performance

As our investigator noted, on 20 July 2018, Mr L's overdraft limit was reduced to £2,500. It was increased to £3,200 in the same month and then to £3,500, £4,000 and finally £4,500 in September 2018 – just two months later. It stayed at that level until December 2019 when it reduced to £4,400 and on 22 January 2020 to £4,200. It reduced briefly to £2,000 in March 2023 before becoming £3,500 on 11 April 2023.

While Mr L hasn't directly complained about the level of overdraft granted, his comments lead me to think about whether it was fair for NatWest to agree such high limits for him. The size of the limit set has directly led to the amount of interest and charges levied on his account. I say this because if Mr L hadn't been able to go overdrawn beyond say £2,500 (the

limit in place at the start of the period complained about) NatWest could only have levied interest on that amount, not on sums up to £4,500 as it did.

So we can see that in 2018 Mr L's overdraft increased quickly in a short space of time. At the beginning of July 2018, his account was £2,700 overdrawn and the majority of the credits into the account that month came from family with just £230 or so being earned income. On 30 July 2018, his balance was almost £3,100 overdrawn. The following day he received £6,000 from the same family member who had been funding the account throughout the month which returned the account to credit for two days. While £1,900 was transferred to another account in Mr L's name, by the end of August 2018, his account was £3,000 overdrawn again. There was no earned income into the account throughout the month, rather, a few transfers from friends and family.

In September 2018, again, there was no earned income and the only credits were from friends and family. By the end of the month, his balance on the account was just over £4,000 and NatWest had agreed to increase Mr L's overdraft limit to £4,500.

Mr L began to receive relatively small sums of income – a few hundred pounds a month - from hospitality work from the end of October 2018 but he was still largely funded by friends and family. Unsurprisingly, given a relatively low income, Mr L's account remained towards the upper end of his £4,500 limit and occasionally exceeded it. He was routinely paying between £70 - £80 per month in interest and charges on his arranged overdraft, but from June 2019 when he began to exceed his limit, he paid a further £72 in unarranged overdraft fees (on top of £79.78 in arranged fees).

In October 2019, Mr L began to receive wages of around £500 a week from his usual profession. This rose to over £800 a week from mid-November 2019. Despite this regular income, Mr L was unable to reduce his reliance on the overdraft significantly although he was able to remain within his limit. This meant he was no longer charged unarranged overdraft fees. While there was less pressure at the top end of his overdraft, he remained well over £3,000 overdrawn.

Mr L's account returned to credit in April 2020 as a result of a larger payment from his regular employment and a transfer from another account in his name. The COVID pandemic had shut Mr L's industry and as a self-employed person, he began to receive lump sum support from HMRC, some charities linked to his industry, part time work and continued support from family and friends. That enabled Mr L to maintain a credit balance on his account (bar the odd small overdraft of up to £300 for a few days) until March 2021 when he began to use the overdraft again. By the end of April 2021, his account was overdrawn by over £2,300 ahead of another payment from HMRC of £2,600 or so.

Mr L's account didn't see a credit balance for more than a couple of days on a couple of occasions until April 2022. From April to November 2022, Mr L was receiving payments from his usual employment again averaging over £1,000 a week so his account performance improved again. While he did use the overdraft, this was no more than a few hundred pounds.

Once the work had stopped in November 2022, Mr L's account remained overdrawn but by no more than £1,000. He funded the account from savings he'd made while he was earning in the previous six months. But by March 2023, those funds were exhausted and his account returned to being over £3,000 overdrawn. Since then, Mr L's account has remained overdrawn generally between £2,000 and £3,500, and been largely funded by family, friends and charities related to his industry.

What should have happened

I've set out the obligations the bank had in terms of monitoring his account. Furthermore, NatWest's own literature, and letters it has sent to Mr L, say that overdrafts are not intended for long term borrowing. Several of the letters it sent to Mr L say, *"Overdrafts are meant for short-term borrowing; for example, an unexpected bill the week before payday."*

I think it's clear that Mr L wasn't using his overdraft as it was intended. His work was sporadic, and he relied on others for support to meet his day-to-day expenditure while he was not working. While working, his earnings were good – between April and November 2022 for example, he was comfortably earning over £1,000 a week. But those kinds of earnings were short lived and not seen regularly.

From July 2018 to the end of that year, there is no evidence of such a level of income. But NatWest agreed to increase Mr L's overdraft from £2,500 in July to £4,500 in September 2018. Mr L has provided statements on his account going back to 2016 and I can see that he was reliant on the overdraft prior to July 2018 – he was over £2,700 overdrawn and was looking to increase his limit.

While CONC doesn't set timeframes in which businesses ought to review overdrafts, we generally expect a review to take place at least annually (or when a new limit is applied for) and that such a review would consider things such as:

- how the account is funded;
- how often the account has a credit balance;
- how the overdraft facility is being used; and
- whether there were any signs of financial difficulties, which might mean the customer would struggle to repay their overdraft within a reasonable period of time.

In this case, I think NatWest ought to have reviewed Mr L's account in detail when he applied to increase his limit above £2,500 in July 2018. Had it done so, it would have seen that he was struggling to live within his means. And certainly, by the time Mr L applied for increases to £3,500, £4,000 and £4,500 in September 2018, it ought to have seen he didn't have sufficient income coming into his account to service an overdraft of this size. I think it should have refused to increase Mr L's limit above the £2,500 he had in July 2018.

Having increased the limit, NatWest had a duty to monitor the account. I'd have expected a review to take place in September 2019 – a year after the latest increases. If it had done so, NatWest would have noted that Mr L was reliant on money from family and friends to supplement his relatively modest income from hospitality. I think it ought to have reached out to Mr L to understand more about his circumstances. It seems clear he was unable to meet his expenditure from his own resources and would be unable to sustainably repay the overdraft if called upon to do so. I think he was in financial difficulties at that point and wasn't using the overdraft for short term emergency expenditure.

His account performance was such that across the period he's complained about, he displayed a few of the signs of financial difficulty set out in CONC 5D.2.3(5) as set out above:

- His limit had increased significantly, from £2,500 to £4,500 and was in constant use;
- His income was variable and often low;
- When he did have savings, these were spent quickly following a reduction in income;
- He fell into an unauthorised overdraft from time to time leading to larger charges and unpaid items.

While Mr L was able to manage his account appropriately for a period between April 2022 and May 2023, he began to use the overdraft excessively again shortly thereafter. If

NatWest had taken steps to reduce the limit sooner Mr L wouldn't have been able to get back into the situation he found himself in when he raised his complaint. That is, he wouldn't be paying interest and charges on an overdraft at a level he couldn't afford.

It is clear to me that Mr L wasn't using the overdraft for short term emergency borrowing as set out in NatWest's literature and letters to him, and NatWest had a duty to step in to support him. Equally, while he had savings, Mr L could have removed the overdraft entirely, but he didn't do so. But NatWest is the party with the regulated obligations – to lend responsibly and monitor the account – and I don't think it did so properly in this case. While Mr L's account conduct is unusual due to the nature of his work, but that doesn't relieve NatWest of its responsibilities to him.

Putting things right

For the reasons I've explained above, I think NatWest should have stepped in to support Mr L with management of his account and overdraft, and I don't think it was responsible for the bank to have increased his overdraft limit beyond £2,500. It follows that I don't think it should benefit through receipt of interest and charges applied to balances over that amount. NatWest should:

- Re-work Mr L's current account so that any additional interest, fees and charges applied to balances in excess of £2,500 from 16 July 2018 to date. This means that from 16 July 2018 onwards interest can only be charged on first £2,500 of any overdrawn balance.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made NatWest should contact Mr L to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on his credit file, it should backdate this to 16 July 2018.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr L, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then NatWest should remove any adverse information from Mr L's credit file. †

† HM Revenue & Customs requires NatWest to take off tax from this interest. NatWest must give Mr L a certificate showing how much tax it's taken off if they ask for one.

My final decision

My final decision is that I uphold this complaint. National Westminster Bank Public Limited Company should put matters right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 June 2025.

Richard Hale
Ombudsman