

## **The complaint**

Mr P, who is represented by his wife in this complaint, says that National Westminster Bank Plc ('NatWest') irresponsibly provided him with an overdraft facility he couldn't afford to repay sustainably.

## **What happened**

In March 2016 NatWest agreed to provide Mr P with an overdraft facility of £400.

Mr P, who started his complaint with NatWest in March 2024, says that NatWest acted irresponsibly in providing him with the overdraft facility. He says it has worsened his financial circumstances for him and his wife, having a long-term impact on their joint financial welfare.

NatWest says that it followed its correct procedures in providing the overdraft facility, continuing to review how the overdraft had been used and providing support where necessary.

NatWest also said that Mr P had made his complaint too late. This was because the decision to provide the overdraft and apply the interest and charges had happened more than six years before Mr P started his complaint. NatWest also said that Mr P ought reasonably to have known he might have cause to complain about the overdraft on each occasion he received notifications and statements about interest and charges being added to the account.

Our investigator told NatWest we could look into the merits of the complaint from when the overdraft was first added to the account, in March 2016. This was on the basis that Mr P's complaint could be interpreted as being about an unfair credit relationship as described in Section 140A of the Consumer Credit Act 1974 (s140), which is in time under the rules. But, having looked into the merits of the complaint, she couldn't find sufficient evidence or information to make an uphold finding.

As Mr P doesn't agree, his complaint has been passed to me 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.

### *Unfair relationship considerations*

There are time limits for referring a complaint to the Financial Ombudsman Service, and NatWest has suggested that part of this complaint was referred to us too late because the decision to lend took place more than six years ago, as did the incurring of some of the overdraft charges and interest.

However, our investigator explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in Section 140A of the Consumer Credit Act

1974, and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

Seeing as I've decided not to uphold Mr P's complaint and given the reasons for this (which I'll go on to explain), whether Mr P referred his complaint about the specific lending decision that happened more than six years ago in time or not has no impact on that outcome. Like our investigator, I think Mr P's complaint should be considered more broadly than just the decision to grant the credit, seeing as he has complained not just about the decision to lend but also the impact this had on him over the course of his relationship with NatWest. Mr P's complaint in this respect can therefore reasonably be interpreted as a complaint about the fairness of his relationship with NatWest. I acknowledge that NatWest may still not agree we can look at the complaint, but given the outcome I have reached, I don't intend to comment on this further.

In deciding what is fair and reasonable, I am required to take relevant law into account. Because Mr P's complaint can be reasonably interpreted as being about the fairness of his relationship with NatWest, the relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974 ("CCA").

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (NatWest) and the debtor (Mr P), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement.
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given what Mr P has complained about, I therefore need to think about whether NatWest's decision to provide Mr P with overdraft credit or its later actions created unfairness in the relationship between him and NatWest, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr P's relationship with NatWest is therefore likely to be unfair if it didn't carry out proportionate affordability checks that might have shown the provision of overdraft credit to be irresponsible or unaffordable, and if it didn't remove that unfairness if the overdraft went on to become unsustainable or otherwise harmful.

#### *NatWest's decision to provide an overdraft facility*

First, I've seen that Mr P says he didn't ask for the overdraft to go with his account and so had no choice in the matter. NatWest says he did apply for it. But once the facility was available to him, he made use of it regularly. It was open to him to tell NatWest if he didn't want the facility to remain available – or to reduce the limit.

When assessing affordability, there wasn't a set list of checks that NatWest needed to complete, but they needed to be borrower focussed and proportionate to things like the type of lending, its cost, Mr P's level of reliance on it and how long it would take him to sustainably pay it off.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Before agreeing the overdraft, I would have expected NatWest to look into Mr P's financial situation to find out whether the overdraft was likely to be affordable for him and something he'd be able to use in a way that was both affordable and sustainable.

The overdraft limit of £400 was relatively modest and Mr P was already a NatWest customer and therefore known to NatWest. At the time Mr P wasn't receiving earned income as far as I can see, so was relying on state benefits along with other household income and funds available to him and his wife. I haven't seen full details of what NatWest saw at the time. I don't want to make too many assumptions about what it saw, but I do know that NatWest carried out checks with a credit reference agency and then used statistical information to help it to decide if the credit was likely to be affordable for Mr P.

*Did NatWest act unfairly in relation to Mr P's use of the overdraft facility?*

I've looked at how Mr P went on to use his overdraft facility after it was opened. I've kept in mind that NatWest was required to carry out regular reviews whilst the overdraft facility was available to him. Using an overdraft for long periods can sometimes suggest a customer is experiencing financial difficulty and that's why I'd expect NatWest to keep an eye on how Mr P was using his account. So it needed to check that Mr P remained in a position to be able to repay what he owed within a reasonable period of time. It follows that I've also considered whether it was fair of NatWest to apply interest fees and charges as a result of the way Mr P was using it.

The bank statements I've seen show Mr P was making regular use of his overdraft, although he wasn't using it to its full extent all of the time. I see he was using the account to repay credit he owed elsewhere and for occasional shopping, household and food purchases, as well as petrol. I also see other regular payments for child maintenance. I also see he was paying back various loans he'd taken out. There's also a significant number of online purchases, many of which I understand were for gaming. And from mid-2019 there was a pattern of betting transactions. I've also noted transfers being made back and forth between the joint account he holds with his wife.

I've therefore thought about whether NatWest needed to do more to help and support Mr P than it already did. I've seen it wrote to him several times about his overdraft use, going forward from May 2020, offering support to help with reducing his overdraft.

I've seen that there were times when he was making more use of the facility than others. There were certainly periods when he was making heavy use of it – although he rarely went over the agreed overdraft limit. I've looked for clear signs that Mr P might have been getting into financial difficulty, to the extent that maintaining an overdraft at this level was unsustainable. I do appreciate that there were times – and it may even have been often – when Mr P felt he was becoming financially stretched and was having to be extra careful with his money as a result.

I've looked at the level of payments into the account. Whilst I can see that Mr P wasn't receiving a regular salary, there were some funds coming in. And I think that reflects the way the overdraft was being used, at different levels, rather than constantly at its full use.

Over time, I think Mr P could have taken steps to gradually reduce his overdraft reliance. I can also see a significant level of non-essential spending – the gaming and betting transactions are good examples. These are things, along with other non-essential spending, that it was of course open to Mr P to spend his money on. And whilst something like online-gambling is a potential indicator of financial difficulty, I don't think I can say that the level and frequency of transactions suggests that Mr P's overall circumstances meant that NatWest ought to have intervened more actively – for example by reducing his overdraft or removing it completely.

As things stood, I don't think there was enough to show or suggest that Mr P's financial circumstances were at risk. I therefore can't say that NatWest ought to have taken further action than it already did in the course of his being a NatWest customer.

I've seen that Mr P's wife told our investigator that Mr P tried on many occasions to speak to NatWest about the difficulties he was having with the account and overdraft. Unfortunately, NatWest hasn't been able to provide us with evidence of that, so I can't comment on whether or not NatWest did enough when it responded.

To summarise, I think it was reasonable for NatWest to have approved the overdraft and to continue to provide it. I therefore don't find that Mr P's relationship with NatWest is currently unfair. It's not clear enough to me that NatWest created unfairness in its relationship with Mr P by lending to him irresponsibly. And I don't find NatWest treated Mr P unfairly in any other way, based on what I've seen.

I realise this outcome will be disappointing for Mr P. But I hope he will understand the reasons for my decision and that he will at least consider his concerns have been listened to.

I would add that I expect NatWest to work with Mr P help him find a way to repay what he owes on a fair and sustainable basis – if it hasn't already. And I hope NatWest will apply appropriate forbearance when putting in a place measures to help and support Mr P.

### **My final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 October 2025.

Michael Goldberg  
**Ombudsman**