

## **The complaint**

Mr and Mrs B complain that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY unfairly paid ground rent and legal costs to their freeholder.

## **What happened**

Mr and Mrs B have a mortgage with NatWest. On 17 October 2024, NatWest wrote to Mr and Mrs B. It said it had received a letter from a firm of solicitors acting on behalf of the freeholder of Mr and Mrs B's home. The letter said they had issued a claim in the County Court for unpaid ground rent, interest and legal costs. NatWest said that unless it received confirmation from the freeholder within ten days that the full amount had been paid then it would pay the amounts that had been demanded to protect its security.

On 25 October 2024, Mr B spoke to NatWest. He said he requested it did not pay the fees – he would pay the £500 ground rent and would dispute the additional fees in court. Mr B said he understood NatWest had agreed to that. So he was surprised when he later found out NatWest had paid the full amount claimed by the freeholder and added it to his mortgage.

Mr and Mrs B complain that NatWest had misled them that it would not pay the fees – and that it should not have done so without their consent and should have supported them in the dispute with the freeholder. Mr B said this matter had deeply affected him and in particular his mental health.

The investigator did not think the complaint should be upheld. But when I reviewed the case I thought NatWest had not treated Mr and Mrs B fairly – although not to the extent they believed. I thought that if Mr and Mrs B successfully dispute the fees with the freeholder in the future then NatWest should reverse the amount in paid to the freeholder and any associated interest. I also said it should pay Mr and Mrs B 3350 for any distress and inconvenience caused by this matter.

NatWest accepted my proposal. Mr and Mrs B did not. They re-emphasised their position that NatWest had misled them and that it should have offered them support in their dispute. They wanted NatWest to financially support a claim against the freeholders or to reduce their mortgage balance by all of the disputed costs apart from the ground rent. They also thought I should increase my proposed award for distress and inconvenience in view of the impact of this matter on them – and Mr B in particular.

## **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 am satisfied that NatWest was entitled under the terms of the mortgage to take steps to protect its security if it was at risk. I agree there was a potential risk if the £500 ground rent was not paid. But it is not clear there was any risk to its security if the additional fees and interest were not paid – unless the freeholder had a court order for those amounts. And NatWest has not been able to explain what the risk to its security was at the point it paid the

disputed fees. Therefore, I think that NatWest acted prematurely in paying the disputed fees and depriving Mr and Mrs B the opportunity of contesting them in court.

The difficulty I have is that I am unable to decide if the disputed fees were due or not. Only a court or leasehold valuation tribunal could make that decision. It would not be fair for me to say that NatWest should refund the disputed amount when there is a chance that Mr and Mrs B might be liable for them. Therefore if Mr and Mrs B were to successfully make a claim against the freeholder then NatWest should reverse the disputed amounts along with any interest.

The dispute was a matter between Mr and Mrs B and the freeholder. I can't see any reason why NatWest would be required to offer legal advice or support to Mr and Mrs B in the dispute. If the court hearing went ahead there was always a possibility that the freeholder would pass the disputed fees and all of its costs to Mr and Mrs B.

While I understand that challenging the disputed fees might be costly, there is no evidence that the overall cost would be any greater than if Mr and Mrs B had disputed the costs in the planned hearing. But if Mr and Mrs B do dispute the fees and can show that the process to show they shouldn't have been paid cost more than defending a case brought by the freeholder, it would not be fair that they pay the additional amount. So if Mr and Mrs B incur any fees in respect of a subsequent claim against the freeholder in respect of the amounts disputed here (not any future amounts) – and they have proof they are additional costs and have actually been paid, then NatWest should refund that amount.

I have listened to the phone call between Mr B and NatWest. I'm afraid I don't agree that NatWest led him to believe it would not pay the disputed amounts. I accept its response should have been much clearer than it was. But I think it would be a stretch to say that it was reasonable to interpret what it said as a firm agreement not to pay the disputed amounts. In any event, that makes no real difference to the conclusions I've reached here.

That leaves a payment for the distress and inconvenience this matter has caused to Mr and Mrs B. I was sorry to hear what Mr B has been through and the impact on him. I've taken into account everything he's said. But having done so, I still consider £350 is a fair amount to reflect any distress and inconvenience caused by any acts or omissions by NatWest. That reflects that the underlying cause of this matter is the freeholder's actions. NatWest is not responsible for the impact of that on Mr and Mrs B.

## **My final decision**

My final decision is that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY:

- If Mr and Mrs B provide evidence from a court or tribunal to support the disputed amounts were not in fact due, then it should refund the amount to the mortgage and reverse any associated interest and fees. If the costs in taking that action were greater than they would have been in defending a claim from the freeholder– and Mr and Mrs B have evidence they are additional costs and have been paid – then NatWest should pay the additional amounts.
- Pay Mr and Mrs B £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 29 October 2025.

Ken Rose  
**Ombudsman**