

complaint

Mr R complains that National Westminster Bank Plc (“NatWest”) unfairly failed to renew his longstanding overdraft facility, issued default notices, placed all his borrowing into its recoveries process even though he had kept up repayments on his loans and put one of his properties into auction.

background

Mr R had a current account and loan accounts with NatWest. He had, for some years, had an overdraft facility on his current account which he says it suited his financial arrangements to keep drawn to its maximum.

When the overdraft facility was reviewed, NatWest concluded that it should be reduced substantially, to £1,000. Mr R says that he had earlier been given an oral assurance, at his branch, that the original overdraft facility would be renewed. NatWest says it allowed some additional time for Mr R to find the money but, as the overdraft still remained outstanding, subsequently required Mr R to convert the overdraft debt into a loan.

Mr R says he did not want a loan, and wanted to keep the overdraft facility which he was willing to reduce over time. As Mr R did not take up the offer of a consolidation loan, NatWest considered that there was no agreed arrangement in place for the overdraft debt and placed all Mr R’s borrowing into its recoveries process. Default notices were sent in respect of all Mr R’s borrowing. Eventually, action was taken to list Mr R’s investment property at auction.

Mr R says that NatWest’s actions were unreasonable and unnecessary, and that there was no need for NatWest to involve his loans – as he had maintained them well. He also says that the standard of service that he received from the recoveries team was very poor, and that NatWest’s decision to require one of his properties to be put into auction was wrong.

As matters remained unresolved, Mr R brought his complaint to this service where it was investigated by an adjudicator. He told us that he had since repaid his overdraft debt and that his loan accounts had been returned to branch control.

From the evidence, the adjudicator arrived at broadly these conclusions:

- Even if the branch had been encouraging about the overdraft facility being renewed, that did not mean NatWest was bound to allow the overdraft to continue at the same level. It was entitled to assess what level of borrowing it was willing to provide by way of overdraft facility.
- NatWest gave an extension of time to allow for receipt of expected money to repay the debt, but was not obliged to accept Mr R’s proposals to repay it by means of a reducing overdraft limit over three years, or to accept a smaller lump sum in settlement.
- NatWest’s final demand letter was correctly sent to Mr R’s address, even if he did not receive it. There had been some confusion over whether or not some other letters were sent, but that did not affect the position. Mr R knew that NatWest wanted the overdraft debt repaid, in any event.
- There was no obligation on NatWest to allow Mr R to open a new feeder account for his direct debits to the loan accounts. These could be made manually, and a standing order

was subsequently set up on another bank account. The loans were returned to branch control once the overdraft debt was repaid and the property, which was part of NatWest's security, was removed from auction once Mr R had paid money towards his overdraft debt.

So, in relation to these aspects, the adjudicator did not consider that Mr R's complaint should succeed. However, the adjudicator noted that the default notices sent to Mr R included the loans because his borrowing was viewed in the round. Looking at the terms and conditions of the loans, and given that the repayments had been maintained by Mr R, the adjudicator did not consider that NatWest was entitled to default the loan accounts and noted that there had also been some delay in returning them to branch control.

The adjudicator recommended that NatWest pay Mr R £500 in respect of the upset and inconvenience caused by that, and also remove any default information on Mr R's credit file in relation to the loans.

NatWest agreed to the adjudicator's recommendation. Mr R did not agree and made detailed additional submissions. I summarise his main points:

- He repeats and amplifies his complaint.
- He considers that NatWest's actions were malicious, and constituted harassment. The adjudicator has not taken sufficient account of the affect that all this had on him, and the strain it placed him under. NatWest used made-up financial information against him to carry out vicious actions.
- The adjudicator has accepted NatWest's preposterous version of events over his own evidence. His account has now been moved to a branch 60 miles away, which is very inconvenient.
- The main thrust of his complaint is about what happened once the recoveries process began. NatWest demanded payment of all his debts, and there was significant confusion on NatWest's part about what communications it had sent to him. This serves to undermine NatWest's case, and points to NatWest having done these things to get revenge on him rather than as part of any valid account management process.
- He challenged whether or not his loans were covered by the Consumer Credit Act, yet this has not been taken up and calls into question the form of notice used by NatWest. There is no indication that the ombudsman service has reported this matter to the regulator or the police.
- Putting his property into auction affected his standing and credibility. The process used by NatWest was unfair and unconventional, and this all stemmed from its earlier wrong actions.
- The closure of his savings account also cost him lost interest. In total, he claims around £75,000 plus interest and ongoing losses.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As the adjudicator has explained, overdrafts are repayable on demand and a bank has no general duty to renew them at the same level as before. Here, NatWest's assessment of the overall proposition, including the up to date security, led it to conclude that it wanted to reduce Mr R's overdraft limit substantially.

Whilst I accept Mr R's case that it suited him to have the higher overdraft facility in place and use it up to its limit, I do not consider that this meant NatWest was not permitted to ask him to repay the debt once it had decided it no longer wanted to provide such a high overdraft facility.

I am not persuaded that NatWest entered into any binding oral agreement to continue to provide the overdraft at the higher limit, though I note that it agreed to give Mr R some extra time to repay the debt. It was also willing to provide a consolidation loan, which would have enabled Mr R to repay the debt back gradually over time.

I realise that Mr R was unwilling to have a consolidation loan and could not repay the overdraft debt by other means at that point. He would have preferred a reducing overdraft limit agreed over three years, and apparently also offered a reduced lump sum settlement as an alternative. But NatWest was not, in my view, obliged to agree to those alternative proposals – or to simply leave matters in abeyance.

I have noted Mr R's views on the form of paperwork used by NatWest in relation to the recovery of the overdraft, but do not consider that this makes any difference to NatWest's entitlement to recover the overdraft debt.

Because no repayment arrangements had been agreed, NatWest took further action for recovery of Mr R's indebtedness. Like the adjudicator, I consider that should not have included defaulting the loans since there was no obvious reason at that point to suppose that Mr R would not continue to make monthly repayments on them as he had done up to then. I consider that the inclusion of the loans added unnecessarily to the difficulties at the time.

However, from the available evidence, I am not persuaded that NatWest's actions amounted to harassment of Mr R or that its pursuit of the debt was motivated by malice as Mr R claims. I accept that the placing of a property into auction, though subsequently withdrawn, caused Mr R further upset and I consider that the recommended compensation takes account of that. Overall, I have arrived at the same conclusions as did the adjudicator about what would be a fair settlement of this dispute.

my final decision

My final decision is that I uphold this complaint in part and I direct National Westminster Bank Plc to:

- pay Mr R £500; and
- remove any defaults that it has registered against Mr R in credit reference files, in relation to his loan accounts.

Jane Hingston
ombudsman