

complaint

Mrs M complains that National Westminster Bank Plc has refused to acknowledge her complaint about an account in her name that doesn't contain her funds, but is subject to a restraining order. She wants NatWest to remove her name from the account.

background

Mrs M said her friend was unable to open an account and needed to deposit the proceeds of a property sale and so she arranged a temporary account via her bank manager. She said her friend then became the subject of a restraining order and the account was frozen. She said the prosecuting authority has since said the funds in the restrained account can be transferred to another account for her friend, but NatWest has refused to allow this. She said this means NatWest are forcing her to have her name associated with the frozen account.

Mrs M said she told NatWest when she opened the account that the funds weren't hers and she proved the source of the funds. NatWest said if she had made it aware that the account was not for her personal use the application wouldn't have gone ahead. Mrs M said she had to facilitate payments from the frozen account because NatWest won't remove her name. She said this has become extremely stressful and NatWest should compensate her for this.

NatWest said it has investigated and responded to Mrs M's complaint. It said Mrs M opened the account in her sole name and agreed to the funds being in her account. NatWest said it didn't agree to remove her name from the account and said the restraining order doesn't require it to open an account for her friend, and it had made a commercial decision not to do so. NatWest said it had complied with a request to transfer a payment from the account to an account overseas. It said Mrs M has acknowledged the ongoing legal issues and it may be more appropriate for her to refer her concerns to the prosecuting authority.

The investigator didn't recommend the complaint be upheld. He said we can't ask NatWest to remove Mrs M from the account as she had made herself responsible for the account and for complying with the terms of the account by opening it in her name. He said Mrs M's friend has a restraining order and so his funds are part of the investigation. He said that the prosecuting authority hadn't ordered NatWest to remove Mrs M's name from the account though it was content for this to happen. He said NatWest haven't done anything wrong by keeping the account in Mrs M's name and it will remain her responsibility until it can close.

Mrs M disagreed with the investigator saying NatWest knew the money was her friend's when she opened the account, and the restraining order was nothing to do with her. She said NatWest's refusal to take her name off the account was in breach of her human rights. She said NatWest has contacted her about the account being overdrawn which would affect her credit rating. She requested an ombudsman review her complaint.

my findings

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

Mrs M said that NatWest hasn't responded to her complaints. I've seen copies of letters NatWest sent to Mrs M in January, February and March 2018. Although I can see that Mrs M wanted a different outcome, I'm satisfied that NatWest has responded properly to her.

Mrs M says NatWest should pay compensation for forcing her against her will to be associated with an account that it knows is nothing to do with her. NatWest said that it was unaware of the purpose of the account and won't open accounts that are not intended for the use of the applicant. I haven't seen any evidence of the meeting to set up the account, but if NatWest were knowingly to open personal accounts for the use of third parties it would open its systems to financial abuse.

Notwithstanding NatWest's understanding of the purpose of the account when it was opened, I have considered whether it has acted within the terms of the account and treated Mrs M fairly in maintaining the account against her wishes.

Mrs M became associated with the account when she opened it in her own name with NatWest. This means she agreed to the terms and conditions of the account and is bound by them until the account is closed. I can well understand her desire to de-link herself from the account, but having decided to open the account NatWest can maintain the account as it is, in accordance with the terms and conditions.

Mrs M said the prosecuting authority told NatWest to open an account for her friend. In fact the prosecuting authority said they were content for this to happen if her friend went to the bank branch. I can see that opening an account in her friend's name could resolve Mrs M's difficulty, but the fact is NatWest is not obliged to do this. NatWest has made a commercial decision not to open another account. NatWest is entitled to do business with whom it wishes and I think in the circumstances it's reasonable for NatWest to decline an account for Mrs M's friend.

Although I can understand the stress the situation is causing Mrs M, It's not obvious to me why NatWest maintaining an account in her name that she requested it to open, would represent a breach of her human rights. However, if Mrs M rejects this decision it will have no legal effect and she is free to explore any other options to resolve her complaint including legal action.

my final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 December 2018.

Andrew Fraser
ombudsman