

complaint

Mr S complains that National Westminster Bank Plc pursued him for debts he says he does not owe. He also objects to the bank contacting his seriously ill daughter to trace him.

background

Mr S says that in December 2013 NatWest phoned his daughter to find out where he lived, so it could pursue some debts it said he owed. He says the call caused her distress, as she was very seriously ill in hospital and therefore vulnerable. He complains that the call was not necessary, because NatWest already knew where he lived. It had been sending bank statements to his address.

The debts NatWest said Mr S owed related to over £11,000 of arrears on accounts it said he had with the bank. In early 2014 it wrote to Mr S to ask him to pay. But Mr S did not recognise the account numbers, so he did not agree that he owed the money. He complained to the bank.

The bank apologised for the phone call to Mr S's daughter. It promised not to contact her again. It explained that it had renumbered the accounts, which was why Mr S had not recognised them, but he did owe the money. But Mr S did not accept this, and complained to our service. He says that even if the debts are his, they are unenforceable because the bank had not done anything to pursue them since 2003.

Our adjudicator did not uphold this complaint. She agreed that the disputed debts were his. She said that our service does not decide whether debts are enforceable or not. And she thought that NatWest was entitled to try to trace Mr S through his daughter because it had lost contact with him. She thought Mr S had not kept the bank up to date with his latest address. So Mr S has asked for an ombudsman to look into his complaint.

my findings

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

I was very sorry to read about Mrs S's daughter's ill health, and his own ill health. I will not describe the details here, but it is clear that they have both been in very serious difficulty for some time. I was also sorry to learn of Mr S's long-running financial difficulties, and his divorce. So I am pleased to see that NatWest has taken these issues into account, and has agreed to write off the debts. However Mr S has asked for some answers, and so I will still give them.

I agree that the disputed accounts do belong to Mr S. They were renumbered in 2002. The new numbers appear on a letter NatWest wrote to him in March 2003, so he knew about them then. I think he just forgot this, due to how long ago that was. NatWest didn't write to him after that because it had sent the debts to a collection agency, which acted on the bank's behalf. The agency had agreed to a repayment plan of £40 a month, which Mr S had been keeping to, and interest was suspended. I won't list the old and new account numbers here, because the adjudicator has already listed them in her letter to Mr S, which is accurate.

It is correct that our service does not decide whether debts are enforceable or not. Only a court may do that. But even if a debt is not enforceable, that does not mean that it is not still

legally owed. And there are various steps a creditor is still allowed to take to collect a debt, even if it is not enforceable. I won't list them all here, but it can certainly contact a debtor to ask him to pay. But that is academic now.

I accept that Mr S did keep the bank informed of his current address. The bank could not find any record of him telling it he had moved, so it assumed he had not done so. But the reason it could not find a record of that happening was because Mr S last moved in 1998, and the bank does not keep records from that long ago. Since then NatWest has written to him at that address. The 2003 letter was sent there. And it sent monthly bank statements there (for different accounts) until 2011.

Due to an error – it has not been possible to find out exactly why – NatWest mistakenly sent a letter addressed to Mr S at his previous address in 2013. That letter was returned to the bank. So NatWest wrongly thought it had lost contact with Mr S, and instructed a third party to trace him. That third party could not find him, but it did find his daughter, and that is why it phoned her. The phone call was not actually made by NatWest, but it was caused by NatWest's error. NatWest apologised for this in May 2014, and removed Mr S's daughter's contact details from its records. Neither NatWest nor its agent knew that she was ill. So by apologising and writing off the debts, I think that NatWest has done enough to put this right.

my final decision

My decision is that National Westminster Bank Plc must stop pursuing the debts which are the subject of this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 21 October 2015.

Richard Wood
ombudsman