

complaint

Mr and Mrs M complain they settled their accounts with National Westminster Bank Plc but it's now told them the settlement only applied to Mr M.

Background

On 15 May 2019 I issued a provisional decision saying that subject to any further comments or evidence from Mr and Mrs M or NatWest, I intended to uphold this complaint. I outlined the background as follows:

In June 2016 Mrs M says she and her husband settled their outstanding accounts with NatWest by paying over £6,000. But now Mrs M's receiving letters from a debt collection agency telling her she owes over £18,000.

NatWest says it reached an agreement with Mr M in 2016 that he could settle his debts if he paid 70% (£6,462) towards his liabilities on his joint account (with his wife) and his two sole accounts. He did this and NatWest settled his two sole accounts in full (£729.85 and £2,553.27). This left £3178.88, which it used to reduce the balance (of £5947.41) on his joint account. It now says Mrs M owes the outstanding balance of £2768.53.

But NatWest said it didn't make any such agreement with Mrs M. So it said she's still liable for her share of the debt on the joint account. It accepted it'd made a mistake in the figure she owed and it apologised. It confirmed she owes £2,768.53 on the joint account and not more than £18,000.

Our investigator could see NatWest made an agreement with Mr M on 1 June 2016 that he could pay £6,462, which was 70% of the debt he owed. But this was based on Mr M's income and expenditure only, and the agreement only covered his liabilities. Mrs M was still liable for her share of the debt on their joint account.

But he thought NatWest should pay £200 compensation for the upset it's caused them. And he thought it should also correct any adverse credit information that would've occurred with the mistake in the amount of money it originally said was owed by Mrs M.

my findings

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

My provisional findings based on the evidence available at the time were as follows:

It seems to me that Mr M genuinely thought that the agreement to pay 70% of his liabilities would close all three accounts and not just his two single accounts. And in his last phone call to the investigator he said he believed all the debts would be gone when he agreed to make the payment to NatWest.

Although from a legal standpoint Mrs M is jointly liable for the debt, and so NatWest can pursue her for the outstanding amount, it doesn't seem fair and reasonable that it should do so. There aren't any phone calls available from that time, but in the debt manager's note there is an entry on 27 May 2016. It says the bank agreed to review the situation - and although it makes the point it can pursue the other party - there's no indication it told Mr M it would do that.

Even if Mr M was aware his wife would still be liable for her share, it seems to me that he would've thought his offer would've settled 70% of his liability on all of his accounts, instead of which NatWest offset 100% against his sole accounts and the remainder towards the joint account - where it knew it could pursue Mrs M. If it'd allocated 70% towards each of the accounts, which was Mr M's understanding, it should've allocated £4,163.19 towards the joint account. So the liability Mrs M would now be facing on that account is £1,784.22 (£5,947.41 - £4,163.19) and not £2,768.53.

So I think the fairest way for NatWest to now put matters right is to reduce the debt Mrs M owes to £1,784.22 (less the £1 monthly payments made since June 2016). And I agree with the investigator that it should also pay Mr and Mrs M £200 compensation for the trouble and upset it's caused them.

NatWest said that if Mr M's payment had been distributed equally between both his sole and his joint debts it would be obliged to amend his credit file to show his accounts were only partially settled.

Mr M said he thought his settlement would mean that the joint account would be closed. That's what he agreed to. He said he would be happy for his credit record to be amended but only if Mrs M's liability on the joint account was written off.

As I've explained above, it seems that Mr M genuinely thought the payment he made in 2016 would close all the accounts. But I'm satisfied NatWest was only dealing with his debt liabilities and not those of Mrs M. I think he assumed that his wife's debt on the joint account would be covered by this settlement. But I'm satisfied NatWest didn't tell him this. And legally she was responsible for half the outstanding debt at the time.

NatWest used Mr M's settlement payment to pay off all his debt on his two sole accounts and used the balance to reduce the debt on the joint account knowing it could pursue Mrs M for the remaining debt. But as I've said I don't think that was fair. The agreement Mr M had with NatWest was that the payment would settle 70% of the debt liability on all his accounts. So I think it's only fair that the payment should be apportioned equally between his two sole accounts and his joint account with Mrs M. That would now reduce her liability to £1,784.22 (less the £1 monthly payments made since June 2016)

NatWest is obliged to report accurate information to the credit reference agencies so I can't tell it not to amend Mr M's credit record if he and Mrs M accept my decision. I can only tell it to ensure that the information it reports is in line with my decision. And for the reasons I've explained, I can't fairly tell it to write off Mrs M's liability.

my final decision

My decision is that I uphold this complaint.

To put matters right National Westminster Bank Plc should reduce Mrs M's debt to £1,784.22 (less the £1 monthly payments made since June 2016) and pay Mr and Mrs M £200 compensation.

Any adverse information on Mr and Mrs M's credit files relevant to my decision should also be removed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 9 August 2019.

Linda Freestone
ombudsman