

## **complaint**

Mrs D complains that National Westminster Bank Plc is asking her to repay a debt she does not owe. She asks that the debt is written off.

## **background**

Mrs D says she did not agree to take out a loan with NatWest and did not receive the money. She says she has been paying off a loan she does not owe for many years. Mrs D also says NatWest has not provided a copy of the loan agreement, so the loan does not exist.

The adjudicator did not recommend that the complaint should be upheld, saying there was evidence the loan proceeds were used to repay Mrs D's existing debts with the remainder paid into Mrs D's account. The adjudicator said, while NatWest could not provide a copy of the loan agreement, this did not mean the loan is not payable.

Mrs D did not agree. She said the numbers did not add up and she wanted to know where the remaining funds were transferred.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The loan was taken out some years ago and, unfortunately, not all of the documents related to the loan are available. From the available evidence, I am satisfied that part of the loan was paid into Mrs D's current account and the remainder was used to repay Mrs D previous loans. I am satisfied that Mrs D made contractual loan repayments and then payments under a repayment plan. Mrs D did not question the credit to her account or the loan payments at the time. So I consider it more likely than not that Mrs D agreed to the loan.

Under the Consumer Credit Act, NatWest must provide a copy of a credit agreement if the borrower asks for it. Mrs D says unless NatWest provides a copy of her credit agreement, she does not consider the debt to exist. Only a court can decide whether a debt is enforceable under the Consumer Credit Act. As Mrs D had the benefit of the money, I consider NatWest is entitled to pursue the debt.

In the circumstances, I do not consider it would be fair and reasonable to ask NatWest to write off the debt.

## **my final decision**

My decision is that I do not uphold this complaint.

Ruth Stevenson  
**ombudsman**