

## **Complaint**

Mr T is complaining that National Westminster Bank Plc ("NatWest") has used the compensation it offered for the mis-selling of a payment protection insurance ("PPI") policy attached to his credit card, to reduce his outstanding debt.

## **Background**

In 2018, Mr T complained to NatWest about a PPI policy sold alongside a credit card. NatWest upheld the complaint and offered compensation of just under £2,000.

Mr T accepted the offer as a full and final settlement to his complaint. He signed and returned the acceptance form in November 2018. On the acceptance form that Mr T signed, it stated that the compensation offer would take into account any arrears Mr T had on his credit card. Mr T amended the form crossing out this part and added a note to say this wasn't applicable as his account had closed in 2007.

After receiving the form, as Mr T had an outstanding balance of around £9,000 that hadn't been repaid, NatWest used the PPI compensation amount to reduce what Mr T owed.

Mr T felt this was unfair. Mr T considered that there had been no activity in regards to the outstanding debt for over 10 years. So Mr T considered the debt was statute barred under The Limitation Act 1980 and the compensation should be paid to him directly.

Unhappy, Mr T referred the matter to our service.

NatWest in its submissions to this service explained that as Mr T had amended the settlement form, it became invalid. It explained that it shouldn't have made the payment and it is happy to reverse the payment should Mr T agree. But importantly, if Mr T accepts the compensation it will still go to reducing what is owed and won't be paid directly to Mr T.

NatWest also explained that in reviewing Mr T's complaint it could have handled it better than it did – and it offered £75 compensation for its poor customer service. It explained it would pay this directly to Mr T via cheque if he accepts.

One of our adjudicators looked at Mr T's complaint and thought NatWest had acted fairly.

As Mr T disagreed, and as the matter hasn't been resolved, it's been passed to me for a final decision.

## **My findings**

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

I note that initially NatWest objected to our service looking at the complaint as it considered Mr T had signed in 'full and final settlement' of his complaint. I'm glad to see that this issue has been resolved and NatWest has withdrawn any objection.

NatWest has agreed it mis-sold the PPI policy to Mr T, so I don't need to look at how it was sold. And Mr T hasn't complained about the amount NatWest has offered in compensation, so I haven't looked at this.

In this decision, I've only looked at whether it was fair for NatWest to use the compensation it's offered to reduce his outstanding debt.

Having done so, I think NatWest has acted fairly. I know this will come as a disappointment to Mr T, so I would like to take this opportunity to explain why.

Mr T's says the debt he held with NatWest is statute barred under The Limitation Act 1980, and so the compensation should be paid to him directly.

The Limitation Act 1980 sets out the timescales with which a lender can legally pursue a debt. So while NatWest may no longer be able to legally pursue Mr T for the debt he owes it – the debt Mr T has with NatWest hasn't ceased to exist.

NatWest has provided evidence to show that Mr T's credit card had an outstanding balance of around £9,000.

NatWest is still out of pocket for this money. And it isn't pursuing Mr T for the debt. It has accepted it owes Mr T money for the PPI compensation, so it owes him a debt. And it is 'setting off' this debt for the PPI compensation against the debt Mr T owed for his spending on the credit card account which still exists and hasn't been fully repaid.

There is in law what is called the *equitable right of set-off* which allows people to 'set-off' closely connected debts. This means that one person (A) can deduct from a debt they owe another person (B), money which that person (B) owes to them.

For this right of set-off to apply, I must be satisfied that there is a close connection between the PPI compensation and the outstanding debt. I must also consider whether it would be fair for NatWest to set-off in this way. Both tests must be satisfied for me to find that NatWest has an equitable right to set-off the PPI compensation against Mr T's outstanding debt on his credit card account.

The PPI sold to Mr T was directly connected to his credit card account. Using the right of set-off I have outlined above, I am satisfied the PPI compensation and the credit card debt are closely connected. They are both related to the same account Mr T had with NatWest.

As both parties owe each other money relating to the same account, it seems fair that one amount should be set off against the other. I haven't been provided with any further information which suggests this isn't fair.

Overall, NatWest has reduced what Mr T owes it and I think it was fair for NatWest to do so.

NatWest has said because Mr T amended the acceptance form, it should have been treated as invalid. It says it can reverse the payment if Mr T wishes. But it won't pay Mr T the compensation while his account still has an outstanding balance. Given what I've said above, that seems fair. I don't think it would be fair for Mr T to receive the compensation directly when there is an outstanding balance owed to NatWest. However the option is open to Mr T. If he wishes NatWest to reverse the payment, it is willing to do so. It is for Mr T to contact NatWest if he wants that to happen.

NatWest has also said it should have provided Mr T with a response to his correspondence disputing the way the redress had been paid. As it didn't, it offered £75 to recognise the poor customer service Mr T received. I see NatWest is willing to pay this directly to Mr T via cheque. That seems fair. If Mr T wishes to accept this amount he should contact NatWest directly.

### **My final decision**

For the reasons set out above, I don't uphold Mr T's complaint. I think it was fair for National Westminster Bank Plc to use the credit card PPI compensation it owed Mr T to reduce his outstanding debt credit card balance that hasn't been repaid in full.

National Westminster Bank Plc's offer of £75 as additional compensation is also fair. Mr T should contact National Westminster Bank Plc if he wishes to accept this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 3 March 2020.

Matthew Horner  
**ombudsman**