

complaint

Mrs P complains about how National Westminster Bank Plc has treated her in pursuing a debt of around £472,000.

background

Mrs P held a joint mortgage with her ex-husband, taken out some time ago, which fell behind in payments.

NatWest took legal action to recover costs and in February 2010, a court awarded an *order of possession*. This gave possession of the property to NatWest to recover around £566,000 for the debt and associated interest - to the date of the judgement.

Also in February 2010, a court issued a *Judgement for Claimant (in default)* – which was reached against Mrs P and her ex-husband. This was in relation to a personal loan and current account and ordered Mrs P and her ex-husband to pay NatWest around £58,000 for the debt – and associated interest to the date of the judgement.

Mrs P has brought this complaint now because she received a letter in 2018 asking her to repay around £472,000.

She complains, in summary, that Natwest:

- told her that her half the debt would be written off
- hasn't been sympathetic to her situation or fully considered her circumstances
- is chasing her for this debt after years of not being in touch
- kept her out of the loop on important information that could financially impact her

To resolve the matter, Mrs P would like NatWest to write off half of the debt and correct her financial history.

NatWest didn't uphold her complaint, so Mrs P brought it to this service. Our investigator didn't think it should be upheld so she asked for an ombudsman to review the matter.

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'm very sorry to learn of the circumstances that Mrs P has described and, having read through the file and noted what Mrs P has told us, I'm conscious of how difficult things have been for her. I can understand why the issues she's complaining about are so important.

This service does not have the power to overturn a court judgement – and I'm afraid in this case, a court has said that Mrs P is jointly liable for the debt in relation to the mortgage, personal loan and account. I can't change or overturn this.

I've noted Mrs P's comments that she's not in a position to take legal representation but I'm afraid as a court has said she is jointly liable for the debt, she would need to apply to the courts to have this changed.

I understand that this will be very disappointing news for Mrs P. Whilst I can't do anything to change this court judgement, Mrs P has raised some additional points that I think are important to address.

Mrs P has said she was told by a member of staff that her part of this debt would be written off if she supported NatWest in its court proceedings. In its final response letter, NatWest acknowledged that Mrs P might have been told this by a member of staff, but it was unable to find any record of a call or a discussion between 2010 and 2014 where this was said. I've thought carefully about what Mrs P has said here, and reviewed the available information including the court documentation, contact notes, as well as other information provided by both NatWest and Mrs P. Where there is limited evidence, I'm required to use my judgement to weigh the evidence and arguments to reach my conclusion. I'm afraid I haven't seen anything to confirm she was told this, but even if I had it's unlikely I would be able to reach a different outcome, for the reason I've set out above.

I've considered what Mrs P has said about the way she's been treated by NatWest and have reviewed the additional information she's provided. I can appreciate that she feels let down here and how difficult and upsetting it must have been to receive the news that the debt is owed after all his time. But where a debt is owed, NatWest has a right to chase it and I'm afraid I'm unable to direct it to set the debt aside.

In the same way, I'm afraid that I can't direct NatWest to share information that relates to another party. I know this will likely be disappointing given that Mrs P has also said that her ex-husband made claims against NatWest in relation to business losses and, as she is party to the mortgage, this should be shared with her. But these seem to have been separate claims made by him.

Mrs P has also raised questions about a piece of land adjacent to the property. From the documentation NatWest and Mrs P have provided, this doesn't appear to have been sold along with the property. This might be something she could approach court records to find out more information about.

I'm terribly sorry to learn of everything that Mrs P has been through and I know that this will be very disappointing for her, but for the reasons given, I don't consider that NatWest has acted unfairly in the circumstances. However, I do expect NatWest to act sympathetically and reasonably in its attempts to recover this debt, giving careful consideration to Mrs P's circumstances.

my final decision

For the reasons I've given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 4 January 2021.

Camilla Finnigan
ombudsman