

## **complaint**

Mr H complains that National Westminster Bank Plc has not been reasonable when dealing with his business borrowing given his financial and personal difficulties.

## **background**

Mr H took personal and business borrowing from NatWest. It's written-off the personal debt but it wants Mr H to repay his business borrowing. He's unhappy at its approach and that it has sent a number of debt collection agents to his home. He has provided details of his financial position and told NatWest about his mental health problems. He is now concerned that NatWest has said it will take legal action.

Our adjudicator did not recommend that the complaint be upheld. She said that:-

- There is a long history to the difficulties with the business borrowing. Arrears had developed in 2013 and NatWest had then asked Mr H for his proposals for repayment. In 2014 it cancelled his overdraft and transferred his borrowing to the recoveries section.
- Between 2015 and 2018 it had considered his circumstances. It had accepted nominal payments. It had put recovery on hold for periods.
- In 2018 it had appointed three collections agents. It had not been possible to agree a repayment plan. And so NatWest told Mr H that it was going to be appointing a solicitor.

Mr H didn't agree with our adjudicator's decision not to uphold his complaint. He didn't think that his personal issues had been properly taken into account, and particularly his mental health. He didn't think that it's reasonable that he be made bankrupt, which is what he thinks is going to happen.

## **my findings**

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

### *an informal resolution*

Before issuing this decision I asked our adjudicator to help me in trying to resolve this case informally. I was minded to think that sending repeated debt collection agents to visit Mr H in 2018 was not reasonable. NatWest was aware of Mr H's mental health issues and financial position. And I didn't think that it was likely to have achieved anything different by this approach. I said to NatWest that I thought it had caused distress to Mr H and I asked it if it was prepared to compensate Mr H for this. I indicated I thought £500 might be reasonable. NatWest agreed to this.

Our adjudicator put this informal offer to Mr H, saying that I would expect NatWest to continue to treat him fairly. He accepted it and NatWest sent him a cheque. Unfortunately that cheque was not signed and had to be reissued. And after Mr H received the new cheque he then also received a letter from NatWest's solicitors about commencing legal action.

He didn't think that this was reasonable and wanted me to address this and also respond to him formally about his original complaint.

### *the background*

Mr H clearly had the benefit of the borrowing for his business. So it's reasonable to expect him to take steps to repay this. Our adjudicator's set out some of the history. And I'm concentrating on what happened in 2018 in particular. This was the reason for a complaint by Mr H which NatWest addressed in a final response dated 3 September 2018. This was about the appointment of debt collection agents.

In that response NatWest said that the agents had been appointed because Mr H had not contacted its specialist support team. That's something it had asked in a letter that he do following a previous complaint it dealt with in December 2017

### *use of debt collection agents*

I looked at what happened closely. NatWest had appointed a new debt collection agent in 2018 after there had not been any contact following its letter to Mr H. That agent contacted NatWest in February 2018 to say that it was passing the debt back. There is a record of Mr H phoning NatWest in February 2018. And that he told it that the agent was passing the debt back as he had provided it with evidence of his mental health and financial position.

I'd seen a copy of a 'debt and mental health evidence form' dated 2 February 2018 that NatWest had. I thought it most likely that this had been passed to the debt collection agent and that it ought also to have been available to NatWest at the time.

A new debt collector was then appointed and it seemed its activity was placed on hold during a payment protection insurance claim and then resumed. Mr H sent a letter to that debt collector in April 2018 enclosing the evidence form and details of his financial position. As far as I can see that information supported a decision by NatWest to write-off his personal debt at that time.

A further debt collection agent was then appointed in August 2018. This led to further contact from Mr H and this complaint. He again supplied details of his mental health issues. The case was then taken back by the NatWest specialist support team

### *my assessment*

In my view NatWest was reasonably on notice of the issues for Mr H when the first debt collection agent in 2018 passed back the debt. I am not clear why further debt collection agents were then appointed, as Mr H had provided details of his vulnerability and financial position. I didn't think that it was right for NatWest to say that Mr H had not been in contact as it had wanted. There is a record of his call in February 2018. I do not see what further progress debt collection agents could have achieved in the circumstances.

That was the view I took when I looked at the case initially, as I explained above. And I also remain of the view that compensation for the actions of NatWest is appropriate. That's because I don't think its actions were positive and sympathetic, and I find these caused Mr H further stress.

### *recovery action*

I appreciate that Mr H wants me to go further and say that NatWest should not take any other actions to recover the business debt now. But I'm afraid I'm not going to say that.

As I set out above, it's reasonable for NatWest to look to him to repay the money. I'm not looking here at the circumstances surrounding his personal lending. But I do know that it has already written-off his personal debt, and that he's had an extended period to address his business debt.

I would expect NatWest to treat him fairly. But his vulnerability does not mean that it shouldn't be contacting him at all. It's now asked solicitors to become involved. I think that given it was always likely going to do this, then this point should have been reached earlier – without the use of additional debt collection agents in 2018.

I don't think NatWest is wrong to be taking this action, but I would expect it to treat any proposals Mr H now makes positively and sympathetically and to be able to show that any action it takes as a result is reasonable.

#### *compensation*

My view remains that £500 is the appropriate amount here. I won't be changing that for the clerical error in sending out the first cheque. So I won't be asking NatWest to do anything further than this.

#### **my final decision**

My decision is that I uphold this complaint and require National Westminster Bank Plc to pay Mr H £500, insofar as this has not already been done.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 April 2019.

Michael Crewe  
**ombudsman**