

complaint

Ms J complains about National Westminster Bank Plc's failure to inform her that she was liable for an overdraft on a joint bank account with her ex-husband.

background

In June 2015, both Ms J and her ex-husband asked for Ms J to be removed from their joint bank account. But as the account was overdrawn, NatWest says it was unable to remove her as requested. The account has continued to operate since that time and the overdraft balance has increased.

In May 2016 NatWest informed Ms J that she's still jointly liable for the full overdraft. Ms J complained that she'd been unaware of this up until this point. In particular, NatWest reassured her in July and August 2015 that, although she'd continue to be named on the account, she wouldn't be liable for the overdraft.

NatWest accepted that it had given Ms J those reassurances. But as this is a joint account, it's entitled to pursue Ms J jointly for the full debt. So it rejected her complaint.

Ms J brought her complaint to us. And the adjudicator decided that NatWest should've frozen the account in June 2015. NatWest accepted this and offered to limit Ms J's joint liability to £2,584.63.

Ms J rejected this offer and asked for an ombudsman to make a final decision. She doesn't think she should be liable for any of the debt.

my findings

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

At the time of Ms J's request to be removed from the account, it was substantially overdrawn. And so I don't think NatWest's refusal to remove her was unreasonable.

But Ms J made it clear that she'd no longer be using the account. And she was concerned that her ex-husband would continue using the overdraft facility. Indeed, that's exactly what has happened. It's clear from the account statements that her ex-husband has been the sole beneficiary of the overdraft facility since the request to remove Ms J.

So I think that NatWest should've frozen the account. The earliest point at which I think it should have done this was 17 June 2015 – which was when another joint account was frozen. The balance of the overdraft on that date was £2,584.63.

I've considered whether Ms J should be held jointly liable for that amount. There's no dispute that NatWest told her she wouldn't be liable. Ms J says that if she'd known back in July 2015 that she was still liable, she would've ensured that her divorce settlement with her ex-husband earlier this year included this debt.

But NatWest's contact notes indicate that Ms J's ex-husband sees this very much as a joint debt. So I can't be sure that the outcome for Ms J, with her divorce settlement, would've

been any different even if NatWest had informed her of the correct position. For this reason, I think that NatWest can ask Ms J to pay the debt as it stood on 17 June 2015.

Having said that, I accept that NatWest's error robbed Ms J of the chance to at least try and negotiate this debt as part of her divorce settlement. And it must have come as a real shock to her to find out that she still owes this money. So I asked NatWest to consider paying Ms J £500 compensation for this loss of chance and for her distress and inconvenience. NatWest agreed and revised its offer to include this compensation.

But Ms J didn't wish to accept NatWest's revised offer. Instead, she'd like NatWest to consider pursuing her for only 50% of the debt. In return, she's willing to agree for the £500 compensation to be deducted from her debt. And she'll repay the rest immediately. But NatWest refused to change its offer. Given that this is a debt with joint and several liability, I don't think NatWest's refusal is unreasonable.

So overall, I uphold this complaint. And I think that NatWest's revised offer is a fair one.

As an aside, NatWest has confirmed that no adverse credit has yet been recorded against Ms J or her ex-husband. But the debt has continued to accrue interest since last year. And even though the account is now frozen – interest will continue accruing.

NatWest has confirmed that it won't add the interest that has accrued so far to Ms J's joint debt. And I think this is the right decision given that she was unaware of the debt until recently. So she hasn't had a realistic chance to repay it. But, in the interests of fairness, now that Ms J is aware of the debt – she should be jointly liable for any interest that accrues going forward.

my final decision

For the reasons I've given, my final decision is that I uphold this complaint. I direct National Westminster Bank Plc to:

- Limit Ms J's liability to £2,584.63, plus any interest that accrues on that amount from now up until the point the debt is settled.
- Ensure that any payments made by Ms J are allocated to her debt – and not the part of the debt that her ex-husband remains solely liable for.
- Pay Ms J £500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 17 November 2016.

Sim Ozen
ombudsman