

complaint

Mr B complains that National Westminster Bank Plc has unfairly registered a default on his credit record. He says that the bank refused his proposals to repay his debt over time and this has led to a much greater financial loss for him.

Mr B wants the bank to remove the default and compensate him for his losses, distress and inconvenience.

background

Mr B had loan and overdraft facilities secured on property. In early 2011 he told the bank that he wanted to repay his loan and part of his overdraft by refinancing the debt elsewhere. The bank rejected his proposal and instead told Mr B that he should sell the properties and repay his debt from the proceeds.

Some months later the loan and overdraft expired without full repayment and the bank registered a default on all of Mr B's facilities. The properties were not sold for about a year, and Mr B says this meant they sold for about £90,000 less than they should have and that he paid an extra – and unnecessary – £11,000 in interest and fees.

The adjudicator did not recommend that this complaint should be upheld. She concluded that the bank was entitled to reject Mr B's proposal for repayment and opt instead for a sales strategy. She also concluded that, as Mr B had not paid the loan and overdraft off when they expired, the bank was entitled to register the default. Finally she concluded that the bank had used its "cross default" policy when recording the default.

Mr B has responded to say that the bank acted without any consideration of the impact its decisions had on him and his business and asked for an ombudsman's review.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mr B had a loan and overdraft totalling about £500,000 and a second loan of about £200,000. In 2011 he told the bank that he had obtained finance from another lender that would allow him to repay the first loan and reduce – but not clear – the overdraft. Recognising that to do this the bank would have to release the security it held, he offered to personally guarantee the remaining debt. The bank says that it was being asked to release over £400,000 of security in exchange for repayment of about £300,000. That would leave it with a significant debt secured only on Mr B's personal guarantee. It says that this was not acceptable and that it believed that selling the security it held was a better option.

Mr B's facilities were due to expire or were repayable on demand. That is clearly shown on the loan documentation I have seen. I am satisfied that the bank was entitled to expect Mr B to repay those debts when they fell due. Following on from that, any variation in how the debt was to be repaid is, I am satisfied, a commercial decision for the bank to take. I can see that the bank considered Mr B's proposal, but I do not find that the bank made an error when it decided not to accept Mr B's proposal and opt for a sale strategy instead.

The properties took some time to sell and did not realise the expected amount. But I cannot say that, when it made the decision to sell, the bank should have known that this would happen. It was acting on the information it held at the time, which is a reasonable thing to do. So I do not find that the bank's actions have increased Mr B's loss.

Later in 2011 Mr B's loan expired and was not repaid. He had also missed some interest payments. Based on that information I am satisfied that the bank was entitled to record the default when it did, as Mr B had breached the loan agreement by not making payments when they fell due. That would also trigger changes in interest rates. I see that these were detailed in letters to Mr B and I am satisfied that interest and fees were correctly applied until the loan was repaid in mid-2012.

The bank has a "cross default" policy. That means that a default on one account held by a customer automatically impacts on all accounts held by the customer. The policies used by the bank are again part of its commercial judgement, and it would be inappropriate for me to challenge these.

my final decision

My decision is that I do not uphold this complaint

Susan Peters
ombudsman