

complaint

Mr M complains that National Westminster Bank Plc is chasing him for a debt it had agreed to write off. He asks that it writes off all or most of the debt.

background

Mr M gave a personal guarantee for the debts of a limited company. The company went into receivership in 2011. NatWest called on the personal guarantee in 2013. Mr M says:

- NatWest did not submit a claim to, or communicate with, the liquidator.
- NatWest did not communicate with him about the debt in 2011. He assumed it had written off the debt and did not take it into account when negotiating with other creditors.
- NatWest told him in late 2013 it would write off the debt then changed its mind.
- NatWest did not take his health into account when he offered to settle the debt with a part payment. He says he could sue NatWest for compensation for the stress it has caused, but would prefer the matter settled so he can move on.

The adjudicator recommended that the complaint should be upheld in part. She asked NatWest to take into account the delay in contacting Mr M about the debt, his financial circumstances and his health. She said NatWest's offer of £500 compensation was fair. She said it was reasonable for NatWest to ask Mr M to provide financial information before it agreed a part payment in settlement of the debt.

Mr M did not agree. He says he is able to repay the debt, but NatWest's delays and errors make it unfair for it to pursue the debt. Had NatWest asked for payment promptly, it would have received a part payment in settlement of the debt at the same time as his other creditors.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I am not persuaded NatWest failed to make a claim to the liquidator. The liquidator's report includes the debt owed to NatWest. The report says there were no funds available to make a distribution to creditors of any class.

NatWest says there was a delay in submitting the claim to the liquidator and transferring the account to its recoveries team. As it refunded interest and charges applied during the delay, I find the delay did not increase Mr M's liability under his personal guarantee.

Mr M says that due to NatWest's delay in calling on the guarantee, he missed the opportunity to agree a reduced settlement with NatWest when negotiating with his other creditors. There is no guarantee NatWest would have agreed a reduced settlement.

Mr M hoped that NatWest would write off his debt due to his health. While Mr M may have discussed this with NatWest, I am not persuaded from the evidence NatWest agreed to write off his debt.

NatWest says it has taken Mr M's health into account. Because of his health, it will consider a part payment in settlement of the debt. It has asked that Mr M provides financial information so it can make a decision whether to accept the settlement offered by Mr M.

Mr M says he will not provide the financial information requested by NatWest. He says he is not asking that the debt is written off because he cannot afford to repay it. While I understand the point Mr M makes, I do not find NatWest unreasonable in saying it will not consider his offer to settle the debt without the information it has requested.

NatWest accepts it made administrative errors and delayed calling on the personal guarantee. It offered compensation of £500 for the upset caused. I consider this fair and reasonable in the circumstances.

While I sympathise with Mr M's situation, I am not persuaded it would be reasonable to require NatWest to write off the outstanding debt. I leave it to Mr M to decide whether to provide the information NatWest has requested to support his offer of settlement.

my final decision

My decision is that I uphold this complaint. In settlement of it, I order National Westminster Bank Plc to pay £500 to Mr M.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr M to accept or reject my decision before 20 April 2015.

Ruth Stevenson
ombudsman