

## **complaint**

Miss H and Miss J complain that National Westminster Bank Plc (NatWest) is pursuing them about a secured loan which it says was arranged about 30 years ago in their late parents' names, but which it is unable to explain or prove.

Miss H and Miss J said the lending was irresponsible in their parents' circumstances and was without their consent. They also complain that a sum repaid to NatWest in 1984 went missing.

## **background**

Miss H jointly owned the property with her late parents and they obtained a mortgage together. In about 1983 Miss H's parents agreed an overdraft with NatWest, which Miss H said she was unaware of. In 1986 NatWest went to court and obtained a charging order which secured the debt on the family home, now owned by Miss H and Miss J.

Alongside the personal debt, Miss H's parents obtained business finance which NatWest said remained unpaid at their deaths. NatWest wrote to Miss H in 2011 stating that a total £265,725 was owed, but that it would accept settlement of £40,000.

Miss H and Miss J rejected NatWest's offer and requested further information about the background of the debt and complained to this service. NatWest said that we cannot consider the complaint because it is time barred.

The adjudicator did not recommend that the complaint be upheld, saying that most aspects of the complaint were time barred. He said that from NatWest's records it was not certain when Miss H and Miss J would have been aware of the outstanding debt and initially considered recovery of the debt by NatWest to be barred by statute. Subsequently the adjudicator agreed with NatWest that it was entitled to pursue the personal debt as it was subject to a charging order and he said its offer to negotiate on the amount payable was reasonable.

## **my findings**

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

This service is not free to consider any complaint that is brought to us and we are required to follow the rules set out for us by the Financial Conduct Authority. These state that a complaint is time barred when it is brought more than:

- a) six years after the event complained of; or (if later)
- b) three years from the date on which the complainants became aware (or ought reasonably to have become aware) that they had cause for complaint.

I agree with the adjudicator that all aspects of the complaint other than the notification of the debt in 2011 are time barred, this includes the origin and calculation of the debt subsequently notified by NatWest. With regard to the notification of the debt this too would be time barred, but I cannot be sure that Miss H and Miss J were aware of the debt before NatWest's letter in 2011 and I have considered whether the maintenance and pursuit of the debt is reasonable.

I have noted that NatWest is no longer pursuing the business debt accrued by Miss H's parents and is only attempting to secure repayment of the personal debt, which it has calculated as £66,000. I agree that this debt is not time barred by statute as it has been the subject of a court order, which secures the debt against Miss H and Miss J's house. The adjudicator was correct to say that this service is unable to challenge an order granted by a court, and I do not consider it unreasonable of NatWest to retain the charge on the property without adopting an alternative approach to the debt.

I was very sorry to see the impact the unexpected debt had on Miss H and Miss J and have noted that NatWest does not intend to enforce its charging order, but will await the eventual disposal of the property. I have also noted that NatWest is prepared to negotiate and has offered to accept half of the outstanding debt, namely around £33,000 and I hope that the parties will reach a workable arrangement to deal with the debt. NatWest has said that the debt will continue to incur interest payments while it remains unsettled.

### **my final decision**

My final decision is that this service is unable to consider all aspects of the complaint that are outside of the time limits set out above, and I have not considered these further.

I do not uphold Miss H and Miss J's complaint about the outstanding personal debt. I sympathise with them as this was related to their late parents, but as it is the subject of a court order, this service may not interfere.

It remains open to Miss H and Miss J to seek a remedy in the court and this will be determined on the court's own criteria.

Andrew Fraser  
**ombudsman**