



summary of complaint

Mrs E complains that National Westminster Bank Plc put undue pressure on her to settle the debts of a family member after she told it the family member was terminally ill. She wants it to give her back her money.

background

I set out the background of this complaint in my provisional decision. In brief Mrs E says that shortly before the death of her family member she visited NatWest. She says in the course of the meeting she was led to believe she had to pay the family member's debts. So she did.

Several years later once she discussed what had happened with trusted third parties. She tells us she realised she was not responsible for the debts. To make matters worse she says she had been placed under undue influence to pay the debts. She said I should presume that the bank had coerced her and the onus was on it to show it had not. To resolve the complaint she asked NatWest to give her back all of the money she paid it.

In my provisional decision, I set out why I proposed to ask the bank to pay back all the interest and charges it had applied to the accounts once it knew of the family member's illness. But I was not persuaded that it had pressurised Mrs E into paying the debts. Neither was I satisfied that I had to presume she was coerced by it in the circumstances. I invited the parties to let me have their further comments on my provisional decision if they wished to do this.

NatWest commented that it wanted me to specify when I considered it had become aware of the family member's illness. Aside from this comment it said it had nothing further to add.

Mrs E responded by clarifying some points she said I had "*overlooked*". She maintained that she had never intended to pay off the debts she just wanted to put a "*stop*" on the account "*i.e. stop charges on the account*". But she says when she visited the bank it convinced her that paying off the debt was her only option.

She tells us that she took a while to complain because understandably in the circumstances she was emotionally vulnerable, and she did not know at first she could complain.

She said her "*personal memories*" of the events are naturally going to be clearer than the bank's given the circumstances. She maintained that the bank could have and should have waited and sorted things out later instead of pursuing her for the debt when she was at such a low emotional ebb.

my findings

I have considered again all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where necessary and/or appropriate, I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in the light of the evidence that is available and the wider surrounding circumstances.

I am aware that answering our questions about this complaint has caused some very painful memories to re-surface for Mrs E. It was never the intention of anyone at this service to cause her further grief. I hope Mrs E will understand we had to ask her the questions we did about the complaint.

the meeting at the bank

Mrs E and the bank have very different recollections of the meeting. I appreciate Mrs E says her personal memories of the meeting are bound to be clearer than the banks. But from the information I have seen, on balance, I do not conclude that Mrs E was placed under undue pressure by NatWest to pay off the debts. I say this because I consider that it is significant that it was she, not the bank, who initiated the meeting. If the bank had wanted to pursue her for the debts as she says I would have expected it to have initiated the meeting. Mrs E could have asked the bank to put a “stop” on the account by phone if that had been the sole purpose of the meeting.

Mrs E has suggested that NatWest was motivated by the knowledge that the family member could not pay off the debts. But I do not see how it could have known this. Mrs E has not told us that the bank had information about the extent of the family member’s estate.

I accept that the delay of years between the event and the complaint could be explained in the way that Mrs E has suggested. But this one factor on its own is not enough to demonstrate that NatWest treated her in the way she says.

For these reasons I do not uphold this part of her complaint.

presumption of coercion

Mrs E says I must presume she was coerced as a matter of law. I disagree; I consider no such presumption applies in the circumstances.

it was not fair and reasonable to keep on applying interest and charges to the accounts

There is no dispute that Mrs E’s family member was terminally ill. Even before the terminal diagnosis it appears clear that the family member was gravely ill. NatWest ought reasonably to have realised that the family member was likely to be experiencing financial difficulties given the particular individual circumstances of this case. On this basis I consider NatWest should have considered what, if anything, it could reasonably have done to assist. It does not appear to have done this.

For these reasons I conclude it would be fair and reasonable for NatWest to refund the interest and charges it applied to the family member’s account from the time that it is likely it was told of the family member’s illness - 31 May 2005 to the point the debts were paid.

my final decision

My final decision is that National Westminster Bank Plc should:

- Refund Mrs E with all the interest and charges it applied to the family member’s accounts from 31 May 2005 until the debts were paid.
- Pay interest at 8% gross simple on the sum it refunds from 31 May 2005 to the date of settlement of this complaint.

If NatWest believes it is obliged by law to deduct tax from the interest then it must issue a tax deduction certificate, so that Mrs E can reclaim the tax from HMRC if appropriate.

Joyce Gordon
ombudsman