

## **complaint**

Mrs E complains that National Westminster Bank Plc (NatWest) has provided confusing and misleading information about a consolidation loan and it is not willing to help her now she is experiencing difficulties in repaying it.

## **background**

Mrs E had a number of accounts in her personal name with NatWest and was also a director of a limited company, for which she had given personal guarantees. In 2010 NatWest made demand for full repayment of the amounts outstanding on all the accounts and also under the personal guarantee. She is concerned that she was told that all her personal secured debts, including the guarantee liability, had been consolidated into one account, to which she thought she was making repayments. She says that the bank then told her that all the accounts were separate and she was making the repayments to the guarantee liability only. Furthermore, she says that she had only signed one guarantee, and disputes that she had given a second one.

The adjudicator did not recommend that the complaint should be upheld. She concluded that Mrs E had signed a second guarantee in 2008 when the company asked for an increased overdraft facility. She was also satisfied that the repayments that Mrs E had made had been used to reduce the total indebtedness on the consolidation loan and not to reduce the company's debts.

Mrs E responded to say, in summary, that she had not signed a second guarantee and the bank was still sending statements for separate accounts.

## **my findings**

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

### *guarantees*

Mrs E accepts that she signed a personal guarantee in 2007, which she thought was for £12,500. In fact it was for £10,000. However, she disputes that she signed a second one in 2008 or that she asked for the company's overdraft facility to be increased. She says that the bank automatically increased the limit to cover the interest and payments to a credit card.

I have carefully reviewed the guarantee, which is for £25,000 and was taken in 2008 at the time NatWest says that the company asked for an increase in its overdraft facility to cover the delays in property completion fees. The guarantee was clearly identified as a guarantee and set out, in capitals, on the front page, a statement strongly recommending that legal advice is obtained before signing. It also highlights that the guarantee should only be signed if the guarantor wants to be legally bound by its terms and that if the bank is not paid by the debtor then the guarantor may have to pay instead. I am satisfied that it bears a signature that appears to be Mrs E's and the signature has been witnessed. In addition, a Waiver of Legal Advice form was also signed. This also bears Mrs E's signature. Again, highlighted in a box and in capitals at the top of the document, it states:

"THIS IS AN IMPORTANT DOCUMENT. YOU ARE ADVISED TO TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING AND YOU SHOULD NOT SIGN UNLESS YOU ARE SURE YOU WANT TO PROCEED." She signed and her signature was witnessed.

In the circumstances, I am not persuaded that Mrs E did not provide the personal guarantee to secure the company overdraft and I am satisfied that NatWest is entitled to rely on it. I also consider that the company's overdraft facility was increased at that stage and its borrowing increased to in excess of £30,000 in 2009.

### *consolidation loan*

I can fully understand Mrs E's frustration about the way NatWest is administering the accounts. She has been told that the personal debts and liability under both guarantees have been consolidated onto one account and yet she is still receiving statements for individual accounts. Mrs E says that these show that all the repayments made have been to reduce the guarantee liability and therefore the company's debt.

I agree that NatWest has provided confusing and misleading information. It has said that all of Mrs E's debts were put onto a single account in 2010, with interest being charged at 2% above base rate and that the repayments were made to this. However, it is clear from its records that it has written to Mrs E and her solicitors stating the amounts outstanding on the individual accounts, with differing interest rates and confirming that the total amount of repayments were going towards the guarantee liability. In 2012 it sent another letter providing details of the amounts outstanding on the individual accounts, which had increased due to interest being added, whilst all the repayments had been credited to the personal guarantee. It has also confirmed that one of the accounts was being charged at 4% over base rate.

Despite the confusion, NatWest has now said that the balances for the personal debt and guarantee liabilities, secured by Mrs E's property, have been transferred to the one consolidated debt account as from 28 April 2010. It has provided a consolidated statement that shows that all the repayments have been used to reduce the consolidated debt, not the company's. NatWest also confirms that all the secured personal debt has been charged at the lowest contractual rate from April 2010. I understand that NatWest is required to send statements periodically for the individual accounts, so Mrs E will continue to receive these. However, for clarity it has also agreed to send a statement showing the consolidated

position. It has agreed to review the account quarterly, sending further statements for it only if a payment has been received during that quarter. I consider this to be reasonable.

Mrs E has made a number of proposals to repay the amount outstanding; including saying she had received a purchase offer on the property held as security, although this did not proceed to a sale. She also agreed to make £700 per month payments, which were to be split £200 to the guarantees and £500 to the other debts. However, she stopped making these towards the end of 2012 and has not made any repayments at all since March 2013. Consequently, the debt is now increasing because of interest being added. NatWest has asked for further repayment proposals, otherwise it has told Mrs E that it will commence action to recover the debt.

Whilst I note that Mrs E says that she did not wish to make full monthly repayments to the credit card and this was what increased the company's borrowing, I find that as it was a NatWest card, the bank would have also sought repayment of any debt outstanding on it when it made formal demand. Mrs E does not dispute that she borrowed the money and has had the benefit of it and I am satisfied that NatWest is entitled to seek repayment. I would urge her to contact NatWest to discuss her repayment proposals. If Mrs E is now experiencing financial difficulties I would remind NatWest that it has an ongoing obligation to treat her positively and sympathetically.

#### **my final decision**

My final decision is that I do not uphold this complaint.

Karen Wharton  
**ombudsman**