

complaint

Mr W complains that National Westminster Bank Plc was irresponsible when it increased his overdraft and then lent him £3,000.

background

On 22 May 2019 I issued a provisional decision saying that subject to any further comments or evidence from Mr W or NatWest, I didn't intend to uphold this complaint. I outlined the background of Mr W's complaint as follows:

Mr W extended his overdraft to £3,000 and then took out a loan of £3,000 to pay it off. But he used his overdraft again and is now £6,000 in debt. He's explained to us that he spent this money gambling and he thinks NatWest should've realised he had a problem. So he says it was irresponsible when it lent him the money. He wants NatWest to freeze the interest and to agree a repayment plan so he can clear the debt.

NatWest said Mr W's overdraft increased to £300 in February 2014, to £1,000 on 2 July 2018 and to £3,000 in July 2018. And it granted his application for a loan on 20 August 2018. It said the overdraft increases were arranged through one of its branches and it carried out a number of checks before approving them. The final overdraft increase was agreed when Mr W said he needed it to pay a number of bills. Mr W then applied for the loan online. He had been running his account satisfactorily. And he hadn't contacted its financial difficulties team.

Our investigator thought Mr W's complaint should be upheld. He said that in line with good industry practice NatWest not only needed to make sure Mr W could afford the lending; it also had to assess whether it would cause him significant harm. He could see from Mr W's bank statements that he gambled over £24,000 between March and June 2018, and £7,700 in July and August 2018. His income was generally around £360 to £380 a week and although he received some significant winnings during this time our investigator didn't think they should be included in the bank's assessment of income.

Although the decisions were automatic, which he said is quite common in the industry, he thought NatWest had enough information to assess Mr W had a serious gambling problem. So he concluded its lending was irresponsible.

NatWest wasn't happy with this. It said Mr W had his current account since August 2011 and there hadn't been any issues with it. He told NatWest the last overdraft increase was to cover a series of bills. And in the loan application the income he declared demonstrated affordability. It said Mr W continued to make funds available to cover the high level of gambling and was operating his account successfully. There was no evidence of financial difficulty. And there was no evidence he'd informed NatWest he had a gambling problem.

It said that where a bank notices gambling transactions but the customer is not operating outside the terms and conditions of the account, and has not asked for help, it wouldn't "necessarily react to this". It said Mr W's account continues to operate successfully within its terms.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My provisional findings based on the evidence available at the time were as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The checks a lender should carry out should be proportionate to the size of the lending and the cost of repayment. But we can't say that a lender should've done any particular check. It seems to me that based on the information available to it, Mr W met NatWest's lending criteria. Banks are entitled to set that criteria using commercial judgement and I can't find that NatWest acted unreasonably in applying it to Mr W's applications. The increase in his overdraft from £1,000 to £3,000 was in a branch but Mr W explained in his applications this was to pay a number of bills. His loan application was made online so he didn't speak to any member of staff who might have questioned him further about the increase in his lending within a short period.

But Mr W says that NatWest should've known about his gambling addiction from the conduct of his account. I know he'll be disappointed when I tell him I don't agree. A customer is entitled to spend his money how he chooses, and it isn't up to a bank to monitor an individual's spending. As I've already said, Mr W met NatWest's criteria for lending. And whilst there were large gambling transactions over a short period of time, Mr W was conducting his account satisfactory and still is. So even though Mr W was using money for gambling, the conduct of his account was such that I don't think NatWest should reasonably have been aware that his gambling was a problem for him. Gambling is a legitimate form of entertainment and a bank can't refuse to lend just because a customer is using his funds in this way. There's no evidence Mr W told NatWest he had a problem and he wanted it to help him. And the lending does not appear to be unaffordable.

So for those reasons I don't find the bank was irresponsible when it increased Mr W's overdraft and gave him his loan.

Mr W has said he accepts my provisional decision. NatWest said it had nothing further to add. So for all the reasons I gave in my provisional decision above I'm not upholding Mr W's complaint.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 July 2019.

Linda Freestone
ombudsman