

complaint

Mr M complains that National Westminster Bank Plc did not assist him during a period of financial difficulty.

background

Mr M was in financial difficulties and there were ongoing exchanges with the bank. He says that on several occasions, he asked NatWest to assist him. The bank asked Mr M for up to date financial information, including accounts.

NatWest wrote to Mr M in September 2012 and gave notice that it no longer wished to provide banking facilities. In October 2012, Mr M sought debt advice from another organisation and wrote to the bank to explain his position. He gave the bank budget information and asked it to accept reduced payments. Mr M did not receive a response. In early December 2012, the bank passed the accounts to recoveries.

The adjudicator did not recommend that the complaint should be upheld. She said:

- The bank did not act unreasonably in asking for evidence of Mr M's income.
- The bank's failure to respond to Mr M's letter or follow-up e-mail did not materially alter the current position.
- The bank was entitled to pass the matter to recoveries.
- Whilst the bank sent Mr M a poor response to his complaint, it did not alter the situation as Mr M was unable to service the debt and the bank was entitled to seek to recover the money.

Mr M did not agree with the adjudicator's view and responded to say, in summary:

- He is sure that he sent to the bank the letter and e-mail asking for help.
- It was clear that he was experiencing a period of financial difficulty.
- He is entitled to expect help and consideration from the bank, as set out in the lending code.
- The legality of the loan agreement is questionable, as the copy he has is not signed or dated.

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 (as some of it is here), 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.

Where there are financial difficulties, a bank must treat the customer sympathetically and positively in relation to any debt that the customer has to the bank. This service's approach in dealing with such cases is to see whether we think the lender made a proper assessment of the consumer's financial situation and whether it took a sympathetic and positive approach. I would expect the bank to consider how it can assist the customer in managing the debt, which in practical terms could include undertaking an analysis of income and outgoings, introducing payment plans for repaying debts or considering ways to reduce or avoid further charges.

I find that the bank received the letter Mr M sent in October 2012 which set out his position and gave budget information and that it was at fault in failing to respond to it. In the particular circumstances here, I agree with the adjudicator that the bank's error in not responding did not alter the outcome in this case. By that time, the bank had asked several times and over a prolonged period for up to date financial information, including financial accounts. It was entitled to ask for that information as part of the process of deciding what it could do to help Mr M. As he did not provide the information, the bank was entitled to take the steps that it did.

In some circumstances, referring accounts to recoveries can be a way of assisting a customer as charges and interest cease on referral to recoveries, which means that the debt does not continue to grow.

I note what Mr M says about correspondence from the bank being open when he received it. That is unfortunate but, on balance, I am not persuaded that the bank was at fault in this respect.

Mr M's complaint that the loan account is not legally enforceable was not part of the initial complaint to the bank. If Mr M wishes to pursue this matter, he should complain to NatWest in the first instance. The matter of legal enforceability is best dealt with by the courts. This service's general approach is that it is not unfair or unreasonable for the bank to seek recovery of money which the customer has had the use and benefit of.

my final decision

For the reasons set out above and those explained previously by the adjudicator, my final decision is that I do not uphold this complaint.

Louise Povey
ombudsman