

## **complaint**

Mrs W complains National Westminster Bank Plc ("Nat West") continue to chase her for the payment of a debt when they'd previously told her when the account was defaulted she'd no longer be pursued for it. Mrs W is assisted in bringing her complaint by her husband Mr W.

## **background**

Mrs W was party to a joint account with NatWest. She complained to NatWest as they continued, through debt collection agencies to contact her for repayment of the debt representing the outstanding balance on the account, after it had defaulted. She said this was wrong as she'd been told by NatWest in meetings that if the account defaulted she would no longer be pursued for the debt.

On the basis they were unable to ascertain what was discussed between Mrs W and staff in branch and their Collections Team, nor what the Branch advised Mrs W in respect of the actions to be taken, NatWest upheld the complaint. They agreed Mrs W was incorrectly advised in branch that should a default be applied to her credit file the bank would no longer pursue her for the debt owed. They apologised, sent a gift and said that irrespective of a default the bank would still look to pursue any named party on the account for repayment. In respect of that incorrect advice they agreed that if the full balance was repaid by 14 December 2017 the default would be removed alongside any adverse data that had been recorded on Mr W's credit file after 21 March 2017 – that being the date the branch last contacted the collections team in respect of actions to be taken in recovery of the balance. Mrs W didn't agree and brought the complaint to us.

Our investigator didn't uphold this complaint and issued two views - both with the same outcome.

In her first view although she thought there was a likelihood Mrs W was told that the debt would no longer be payable after the default, there was no evidence to confirm this. But, as far as she could see, if Mrs W was told this it was incorrect and the default should have been recorded and the outstanding balance was still owed. So the investigator thought NatWest weren't wrong to continue to pursue Mrs W for the outstanding balance and she didn't ask them to honour the agreement. She thought the payment of a £30 gift voucher with the offer to remove the default if the debt was paid by 14 December 2018 was a fair resolution to the complaint.

In her second view, in response to detailed points made by Mrs W, the investigator said there was no evidence of any wrongdoing by the bank. But in this case - even though NatWest and this service had accepted Mrs W's version of events based on her memory of the conversation - the investigator still felt what NatWest had offered was enough. The investigator thought Mrs W had suffered a loss of expectation – she'd expected the debt to be written off after the default and was understandably disappointed this was not the case. But the investigator said, as a service, we wouldn't ask the business to honour this purely on the basis there had been that loss of expectation for two reasons. Firstly there was no evidence the agreement was made, such as written confirmation. And, secondly, in the event that Mrs W failed to make payments under the regulations a default would need to be applied to her credit file. And in those circumstances the debt would remain payable.

Mrs W didn't agree. She repeated the points she'd made earlier. She expressed doubts that this had been investigated thoroughly and asked that the ombudsman was made aware of all factual evidence.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I appreciate that Mrs W feels our adjudicator hasn't fully investigated all aspects of her complaint. I've looked at everything afresh before reaching an independent view. But I'm not persuaded this is a complaint I can fairly and reasonably uphold.

I'm very sorry to hear of Mrs W's medical condition and her husband's poor health. I do understand this is a very difficult and worrying situation for them. It's clear that Mrs W has strong feelings about this complaint. She's provided detailed submissions in support of her view which I can confirm I've read and considered in their entirety. However, I trust Mrs W will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision isn't to address every point raised, but to set out my conclusions and reasons for reaching them.

I agree with the approach taken by the investigator in terms of what we can consider in this complaint. This service has already issued a final decision dealing with Mrs W's responsibility for the debt on 11 September 2017. It said *"when Mrs W and....opened the account they agreed to the terms and conditions of the account that meant each of them would be liable for any debt independently from the other. So NatWest was entitled to chase Mrs W for the debt"*. So I think it's right that the only aspect of the complaint *now* brought by Mr W which I can consider is whether or not NatWest should stop chasing Mrs W for the debt *since* a default was applied to her credit file.

There's very little I can add to what the investigator has already told Mrs W on this point. It isn't my role to punish businesses for making mistakes; it's my role to put consumers back into the position that they should've been in if the mistakes hadn't been made. The mistake which NatWest have admitted (on the basis there are no recordings and giving Mrs W the benefit if the doubt) is giving incorrect advice to her that the debt wouldn't be pursued once defaulted. When Mrs W brought this to their attention they told her this was wrong. Mrs W wants them to no longer pursue the debt based on that. But that's not logical or something I can ask the bank to do. The debt is properly owed under the terms and conditions of the account. The mistakes made by NatWest in giving incorrect advice to Mrs W don't justify writing off this debt. As the investigator explained defaulting the account doesn't legally clear the debt.

I don't doubt that Mrs W and her husband are people of principal as they say. And I think it's important to re-iterate NatWest and this service accepted Mrs W's version of events based on her memory of the conversation. So it's not the case that her concerns aren't accepted. It's simply the case that, even accepting her recollection, the actions NatWest have now taken are a reasonable response. Given how strongly Ms W feels about what happened she may want to pursue the matter further through other routes. But my decision brings to an end what we – in trying to resolve her dispute with NatWest informally – can do for her. I'm sorry if this disappoints Mrs W.

**my final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 26 May 2019.

Annabel O'Sullivan  
**ombudsman**