

complaint

Mr A complains that he applied to act as guarantor for a loan for his son but as this was no longer a service National Westminster Bank Plc offered, it instead enabled his son to access his overdraft without making the implications clear. Also, he says that it has ignored his requests to meet after his son entered into an IVA, leaving him liable for the debt. He is unhappy about the contact from its collections agents. He goes on to say that the bank then terminated his other accounts and provided adverse information to the credit agencies, which has destroyed his ability to borrow.

background

After a branch meeting in April 2007 a joint application with an overdraft limit of £2,000 was processed. The limit was then increased to £10,000 but this was later exceeded. After Mr A's son entered into an IVA the bank pursued Mr A for repayment of the debt, based on his joint account holder status. The bank suspended activity to recover the debt once the complaint was raised, and offered a £100 goodwill payment for the time taken to respond to the complaint.

Our adjudicator did not recommend that the complaint should be upheld. She found that the bank had followed the correct processes throughout, and the terms of the account meant that Mr A and his son were both jointly and individually responsible for the debt. Mr A disagreed, saying the bank had not followed the normal rules of compliance and that he was never sent anything in writing confirming what had happened at the branch meeting.

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, contradictory or inconclusive (as some of it is here), I have based my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I am not persuaded that the bank misrepresented how it was giving access to credit to Mr A's son, or withheld the implications of doing so. Whilst I cannot know what was discussed in the branch, I have seen a copy of the application form for the joint account.

Both Mr A and his son signed to say they had read, accepted and held a copy of the terms of the account.

Mr A's argument centres on the confusion during and after the meeting, and the fact the bank never gave written details of what had been agreed, but I find that this conflicts with the evidence showing he had ticked a box saying he had a copy of the terms of the account. On balance, I consider that Mr A should have been aware that he was jointly and severally liable for the account.

With regards to the collections activity, as his son had entered into an IVA the bank could only pursue Mr A to recover the money it was owed. I am not satisfied that there is enough evidence to conclude that it did anything wrong in the way it tried to collect the debt. I am aware that the bank's solicitors recently wrote to Mr A despite the bank having put collections activity on hold. Whilst I agree with Mr A that this is not acceptable, I understand

that an apology was issued and this administrative error does not change my view on the more material issue of Mr A's liability to repay the debt.

The information the bank passed to the credit reference agencies is an accurate reflection of how the account was managed. I do not find that there are grounds on which to direct the bank to remove the adverse data. On the account closures, the bank followed the correct process and it was also within its rights to use money in other accounts in Mr A's name to reduce any debt owing.

Whilst I can understand that this has all been very distressing for Mr A, I cannot conclude that the bank is at fault. The evidence available shows that it has, at each stage, acted in line with the terms of the account. I would urge Mr A to contact the bank to agree a repayment plan for the outstanding debt. I note that the bank has said that this can be done by making an appointment with his local branch manager. I would ask the bank to ensure that all relevant departments have the same up-to-date understanding of the status of Mr A's account.

my final decision

My final decision is that I am unable to uphold this complaint.

Rebecca Connelley
ombudsman