

The complaint

Mr D's complaint is that National Westminster Bank Plc ("NatWest") permitted him to continue using his overdraft and incurring fees and charges when it should have seen he wasn't using the facility as intended.

To put things right, Mr D wants NatWest to refund fees and charges and remove the overdraft from his account.

What happened

I issued a provisional decision on this complaint where I set out a detailed background to this complaint and gave both parties an opportunity to provide further evidence and comments before I issued my final decision. My provisional decision forms part of this final decision and should be read alongside it.

The findings in my provisional decision are set out in smaller font and italics below.

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

NatWest has apologised if the question about asking Mr D to get another job caused offence, it said it would have only been asking that question to see if Mr D could increase his income. I think it has acted fairly here with an apology.

NatWest is familiar with all the rules, regulations and industry codes of practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges.

Having carefully considered everything provided in this case, I think NatWest acted unfairly when it continued charging overdraft interest and associated fees from August 2017 onwards. I say this because it is evident that by this time, Mr D's overdraft had become unsustainable for him.

For the avoidance of doubt, I've based on my decision on Mr D's use of his overdraft within six years of when he complained as this was the crux of Mr D's complaint. I also won't be making a finding about issues covered in NatWest's final response letter in 2022 as these issues do not fall within the remit of this service.

A look at Mr D's statements leading up to August 2017 showed that Mr D had indeed been hardcore borrowing for an extended period. NatWest has provided bank statements from January 2017 and Mr D's opening balance on this statement shows he was in overdraft of over £2,000. For the period running up to August 2017, Mr D didn't have or maintain a credit on his account. In fact, the bank statements show Mr D was over his overdraft limit a number of times. Mr D was paying his day-to-day expenses through his overdraft, he was also repaying a NatWest loan and also servicing a loan from a sub-prime lender.

The transactions taking place on Mr D's account indicated that there was little prospect of him being able to repay what he owed without undue difficulty or borrowing further. It was already clear that he was borrowing from his overdraft to repay credit elsewhere by this stage.

I'm mindful that Mr D had a savings account with NatWest and that his current account shows transfers into his savings account. I've asked NatWest for Mr D's savings account statement and I'm satisfied Mr D didn't have a balance in his savings account that meant he could repay his overdraft debt. Mr D wasn't in a position to get himself out of debt.

In my view, NatWest ought to have seen from Mr D's overdraft usage that he wasn't using his overdraft for short-term emergencies and that he was instead using it over a much longer and unsustainable term.

NatWest continued to unfairly charge Mr D interest and fees on the overdraft when it should have seen he was in an unsustainable financial position. So, it needs to put things right as it should have withdrawn the overdraft facility from August 2017 onwards."

The deadline to respond has now passed and both parties have responded. Mr D accepts my provisional decision and NatWest says it has nothing further to add.

What I've decided – and why

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

Having reconsidered this complaint and the responses from both parties, I see no reason to depart from the findings in my provisional decision.

NatWest has made an error by not stepping in when it became apparent Mr D wasn't using his overdraft in the intended way and the borrowing became unsustainable for him. So, it needs to put things right.

Putting things right

To put things right for Mr D, NatWest should:

- Rework Mr D's current overdraft balance so that all interest, fees and charges applied to it from August 2017 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made NatWest should arrange a suitable repayment plan, Mr D is encouraged to get in contact with and cooperate with NatWest to reach a suitable agreement for this. If it considers it appropriate to record negative information on Mr D's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in August 2017. NatWest can also reduce Mr D's overdraft limit by the amount of any refund if it considers it appropriate to do so, as long as doing so wouldn't leave him over his limit.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr D along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then NatWest should remove any adverse information from Mr D's credit file. NatWest can also reduce Mr D's overdraft limit by the amount of refund if it considers it

appropriate to do so.

† HM Revenue & Customs requires NatWest to take off tax from this interest. NatWest must give Mr D a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons given above, I uphold this complaint and direct National Westminster Bank Plc to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 15 April 2024.

Oyetola Oduola
Ombudsman