

The complaint

Mr I complains that National Westminster Bank Plc refused his mortgage application for additional borrowing.

What happened

Mr I has a mortgage with NatWest which he took out in 2019. He approached NatWest in March 2022 as he wanted to borrow additional funds to purchase another property. He said that NatWest declined the application because the property wasn't deemed suitable security due to fire risk.

Mr I said that the Royal Institution of Chartered Surveyors (RICS) released a statement on 15 July 2022 to support leaseholder protection in the Building Safety Act 2022. He said this statement highlighted lenders that supported this statement and NatWest was one of them – so he doesn't understand why they declined his mortgage application. Mr I said the statement specifically says that providing the mortgage application meets individual lender's policy and regulatory requirements, they will lend on buildings that will be self-remediated by developers or captured under a recognised government scheme.

Mr I said that because NatWest declined the application, he had to go to a new lender which now means the interest rate he is paying on the mortgage is higher than it would have been had NatWest approved it. He said he also had to pay for a valuation fee which he has also lost out on.

NatWest issued their final response on the matter and said that the surveyor who carried out the valuation on Mr I's property on 20 July 2022 gave it a zero-value due to the fire risk issues on the property which needed remedial work. And due to the property's fire risk rating, they were unable to lend any further funds.

Mr I was unhappy with what NatWest said so he brought the complaint to the Financial Ombudsman Service where it was looked at by one of our investigators who didn't uphold the complaint. She said that NatWest were entitled to rely on the opinion of the surveyor and that the July 2022 statement released by RICS was taken into consideration with the statement which was issued in March 2022 which wasn't unreasonable. She also said that there weren't any committed dates as to when the remediation works to the property would start and complete and funding for the work hadn't been finalised. So she didn't think that NatWest had acted unfairly when they declined Mr I's application for additional borrowing.

Mr I disagreed with the investigator and said we haven't relied on the most recent statement issued by RICS from July 2022 and we are mostly focussing on the one issued in March 2022. He doesn't agree that an older statement should be given more weight than the newer one as the remediation timescales are only mentioned in the March 2022 statement and not the July 2022 one. He said the newer statement builds on the one from March 2022, but it doesn't mean they can't both be considered equally.

Mr I also said that he believes there is no need for a lender to have set timescales for remediation work to be completed and has said that his building has received full funding so there is no need for NatWest to request this.

As Mr I disagreed with the investigator, he asked for the complaint to be reviewed by an ombudsman, so it has been passed to me to decide.

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.

The EWS1 form was introduced in collaboration between government, the mortgage industry and the surveying industry following the Grenfell Tower tragedy. The fire at Grenfell Tower led to concerns across the country about the possibility of combustible cladding and other fire safety issues which might allow a fire to spread quickly through affected buildings.

The EWS1 process allows a qualified fire safety inspector to assess a building's external wall system. The building will then be given a rating showing that there are no fire safety risks, that there are issues, but the risk is low, or that there are issues which are high enough risk to require remedial work. Obtaining the EWS1 form is the responsibility of the building owner/management company and not the individual because the form covers the whole building.

The EWS1 process was designed, among other things, to give mortgage lenders enough information to decide whether a building presented a particular fire safety risk. Lenders will therefore only lend where the property is subject to the property being good security for the loan – and if there is a fire safety risk, it might not be good security. That's because there's a higher risk of damage to the property, and also a greater likelihood that it won't be able to be sold if it needed to be.

General guidance to surveyors and valuers from their professional body at the time was that an EWS1 will be required where there are potential cladding or other issues, and the building is six storeys or higher. And that an EWS1 may be required for smaller buildings too, if there are grounds for considering there's a risk that needs to be assessed.

In common with other lenders, NatWest took these issues into account in setting their lending criteria for lending mortgages on properties in blocks of flats and similar buildings. NatWest's lending criteria states that a surveyor is to assess the building in line with directions given by Royal Institution of Chartered Surveyors (RICS) guidance in determining the risks posed by the cladding attachments to a building. Where it's deemed necessary, the surveyor will require the production of an EWS1 certificate.

Mr I's property was rated as B2 which is one where there is a higher risk of damage to the property.

Mr I's argument is that, before the valuation of the property was carried out, RICS provided a statement on 15 July 2022, which NatWest supported, along with other lenders.

That statement said:

The lending and valuation industries welcome the work the Government has undertaken to ensure that leaseholders in properties impacted by cladding and building safety issues will be protected from the costs of remediation. The introduction of the developer self-remediation scheme, Government's plans to re-open the Building Safety Fund and a new remediation scheme for buildings between 11 – 18 metres will help to remove the financial risk to leaseholders in blocks of flats 11 metres and above. We also recognise that the costs for remediating non-cladding defects is capped in law for qualifying leaseholders.

We welcome the Government's agreement to make available, as permitted, details of the buildings included in these schemes for use by sectors and key participants in the home purchase process, ensuring transparency for all.

It then goes on to say:

Alongside this, providing the mortgage application meets individual lenders' policy and regulatory requirements, lenders will lend on buildings that will be self-remediated by

developers or captured under a recognised government scheme or there is evidence of a qualifying lease certificate.

NatWest were listed as one of the supporting lenders of the statement which is why Mr I doesn't understand why they would decline his mortgage application.

The March 2022 statement says:

- *Where the EWS1 form or equivalent assessment shows that remediation is not required on A1, A2 or B1 ratings – lenders will continue to lend*
- *Where the EWS1 form or equivalent assessment recommends remediation on A3 or B2 ratings – lenders will take the necessary steps to facilitate lending where a costed and funded remediation plan is agreed with committed dates for starting and finishing all specified/required work*

NatWest is again listed as one of the lenders on this statement.

Mr I feels that more weight has been placed on the March 2022 statement which is incorrect even though the July 2022 statement explains it builds on the March 2022 one. He says that the latest statement from July 2022 should be taken into consideration.

The valuation that was carried out on Mr I's property was dated 20 July 2022 and the valuer said that a fully completed EWS1 form (of an A1, A2 or B1 rating) completed by an appropriate signatory should be provided along with a covering letter. He gave a zero value to the property and an after works value of £530,000.

There was a post valuation query form sent to the valuer which said that the letter confirms the building has a B2 rating so remains unsuitable security until the work is undertaken and a revised EWS1 form is provided with an acceptable rating.

I have seen an email from the estate management company which confirms that they have made a successful application to the governments building safety fund to cover the cost of remediation as well as making a claim on the NHBC warranty for the building. So it confirms that leaseholders will not have to cover the cost of the remediation work. This notice shows the intention of getting the work carried out but doesn't provide committed dates for when the remediation work would start or complete – but the funding has been approved.

NatWest said that Mr I originally took the mortgage out in 2019 before the issues with the cladding became apparent so they didn't need anything then. But they said they are unable to lend any further funds to Mr I nor are they obliged to. NatWest said the valuation report required an EWS1 form with an approved rating (A1, A2 or B1) but as Mr I's property was rated as B2, they relied on the information provided by the valuer so declined the application.

NatWest said in January 2023 they introduced a change in lending policy whereby the bank started to accept buildings requiring remediation (demonstrated by either an A3/B2 EWS1 rating) and where the customer is a qualifying leaseholder. And NatWest said that Mr I is able to apply for a new application now if he wishes to do so.

NatWest said in Mr I's case, the date of the valuation report is from August 2022 (which having looked at the valuation it's dated 20 July 2022). At that time their policy advised that lending was only acceptable on buildings not requiring remediation. So at the time of the valuation, the report was in line with their guidance and policy.

They said the public statement issued by RICS on 15 July 2022, which NatWest supported, confirmed that lenders would be supporting lending on flats where remediation is required due to building safety defects.

Having thought about everything carefully, and while I do appreciate the points that Mr I is making, I don't think that NatWest declined his mortgage application unfairly.

Mr I applied for additional lending in March 2022 and a valuation was completed on his property on 20 July 2022 – five days after the RICS policy statement issued on 15 July 2022. This statement was not a standalone statement, and it did build on the March 2022 statement that was made. I don't think it's fair to say that NatWest ignored the July 2022 statement and only focussed on the March one, as they had to consider both of those depending on the remediation work that was required on the property.

Mr I did provide evidence to show that funding had been approved but there were no specified dates as to when the remediation work would start or finish – and this was still a requirement under the March 2022 statement and I don't think it was unreasonable that NatWest considered both statements. It could be deemed a risk for NatWest as there was no information on the start dates or completion dates which could end up taking a considerable amount of time to complete – and this is something that they were entitled to think about.

Mr I thinks that more weight was placed on the March 2022 statement but I can't agree that it was. But NatWest were entitled to consider both statements and where remediation dates were not provided, they were not wrong in declining the application. And as I've already said, the July 2022 statement was building on the March 2022 one which NatWest were entitled to rely on.

The issues and guidance surrounding properties with cladding on has changed over time and can be fast paced. I think the thing to consider here is that Mr I had applied for his mortgage when the March 2022 was still relevant. And the valuation was only carried out shortly after the July statement, but NatWest were entitled to consider both statements when deciding whether to lend to Mr I.

They were named as one of the lenders that supported both of those statements which is the point that Mr I is making, but that didn't mean that they would automatically approve applications without considering both statements and what would be required for remediation work. Many lenders at the time would decline applications outright if a property was rated B2 and the lenders listed as supporting those statements, were the ones that would support properties that were higher risk due to fire safety concern issues – taking into account both guidance statements from RICS.

I know that this will come as a disappointment for Mr I but based on the evidence I have been provided with, I'm satisfied that NatWest acted fairly in these circumstances.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 13 October 2023.

Maria Drury
Ombudsman