

## The complaint

Mr and Mrs P are unhappy that National Westminster Bank Plc (NatWest) declined an application for a further advance on their buy-to-let (BTL) mortgage.

Mr and Mrs P are also unhappy at the way NatWest dealt with their complaint.

To put things right, Mr and Mrs P want NatWest to pay them compensation.

## What happened

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr and Mrs P being identified. So for these reasons, I will instead concentrate on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Mr and Mrs P have a BTL mortgage with NatWest. In September 2022 they contacted their mortgage broker as they wanted to take out a further advance for home improvements and put a product switch in place. However, it wasn't possible for the broker to go ahead with the further advance, because NatWest's policy was that it would only allow further advance applications on BTL mortgages to be made directly through the bank, rather than through a broker.

Mr and Mrs P spoke to NatWest on 26 September 2022 and received an Agreement in Principle (AIP) for the extra amount they wanted to borrow. They needed to speak to a mortgage adviser, and an appointment was made for 28 November 2022, and a pre-appointment call was made on 18 November 2022.

Prior to that the adviser confirmed to Mr and Mrs P in an email dated 27 September 2022 that the bank wasn't able to provide copies of its calculations that led to the AIP. The email also said:

*"In relation to the approval in principle itself this does not constitute an offer, but simply provides an indication, based on the initial information that you have provided, of the amount that you can potentially borrow."*

*A Mortgage Offer will only be produced once a successful application has been received and fully assessed. Your mortgage application will be subject to the lending criteria of the day of the application (the day of our appointment [28 November 2022]) but once a mortgage offer has been produced it will be valid for six months from the date of issue."*

Also in September 2022, the broker applied for a product switch, which was put in place to begin on 1 January 2023.

However, before Mr and Mrs P could discuss the further advance, NatWest changed its lending criteria, as a result of which Mr and Mrs P's application was declined on the basis of affordability.

Mr and Mrs P complained. They say that the length of time NatWest took to deal with their application and the failure of the bank's procedures in systems resulted in the bank's failure to honour the AIP. Mrs P, who has dealt with the complaint throughout, said that NatWest had acted unfairly and that the bank should have honoured the AIP and offered them the amount they wanted to borrow.

In its final response letter NatWest explained that the application for the additional borrowing should have been completed first, followed by the product switch application. But it wasn't possible for NatWest to process an application for a further advance whilst there was a pending new interest rate product.

Unfortunately, by the time Mr and Mrs P were able to discuss the further advance with NatWest its lending criteria had changed and the bank wasn't able to lend any additional funds.

NatWest acknowledged that Mr and Mrs P had spent a long time on the telephone and offered £50 compensation for this. But the bank didn't change its decision to decline the additional borrowing.

Mr and Mrs P didn't accept this and raised their complaint with the Financial Ombudsman Service. In addition to their dissatisfaction that the bank refused to honour the AIP, they raised additional queries that they would like answers to:

- how many of these mistakes might have happened in the context of the September governmental chaos, and why did NatWest not have more robust precautionary measures in place to prevent their customers being penalised because of it?
- how have these mistakes been amplified by NatWest's demonstrated failures of basic clerical accuracy?
- how, given how long it has taken to garner a response, has possible staffing incapacity further exacerbated NatWest's inability to respond to or resolve complaints?
- what does the Financial Ombudsman Service recommend be done?

An investigator looked at what had happened. He explained that the AIP isn't a mortgage offer and, whilst he acknowledged Mr and Mrs P's frustration, he didn't think NatWest was obliged to offer Mr and Mrs P the additional borrowing. The investigator thought the £50 compensation was fair in all the circumstances.

Mr and Mrs P didn't agree with the investigator's findings and asked for an ombudsman to review the complaint. They reiterated all the points they'd previously made, but said that they wanted to change the terms of their complaint. Mr and Mrs P said that they didn't now want the additional borrowing NatWest had "*promised*" them, but would instead like compensation for the time spent since September 2022 trying to resolve the complaint.

## **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.

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes and systems, or how they operate generally; that's the role of the Financial Conduct Authority (FCA). We also have no power to oversee, sanction, punish or fine businesses – that's also the role of the FCA.

We deal with individual disputes between businesses and their customers. So although I've noted the questions which Mr and Mrs P would like answered about NatWest's systems and the potential impact of the mini-budget in September 2022 on other customers or the bank's staffing levels, those aren't issues that fall within my remit.

NatWest is entitled to set its own lending policies, and I don't have any power to interfere with those. NatWest's policy is that it will not allow further advances on BTL mortgages to be applied for via a broker; the customer has to contact NatWest directly. That does not seem to be an unreasonable policy and it is one that NatWest is entitled to implement.

In addition, where a customer requires both additional borrowing and a product switch, the bank's policy is that, if the new interest rate product is to apply to the whole of the borrowing (including any additional borrowing), an application for the additional borrowing has to be completed first, and then the product switch applied for. I'm satisfied that this is clear from the intermediaries portal used by the broker. Again, this is a reasonable policy, and indeed it is fairly standard across mainstream lenders.

Following the mini-budget that took place in September 2022 which immediately impacted on interest rates, there was a high demand across all sectors of the mortgage market from customers requiring new products. I can understand how frustrating it was that Mr and Mrs P weren't able to get an appointment any earlier than the end of November 2022 for their further advance application. However, as I said above, the way NatWest organises its operations and staffing isn't something I have any power to consider.

NatWest is entitled to set its own lending criteria. Decisions that NatWest makes in respect of what those criteria are, its attitude to risk involved in this particular lending assessment, and whether it should lend or not are clearly discretionary matters for NatWest's own commercial judgement that I would not interfere with. Where an application does not meet lending criteria, NatWest isn't under any obligation to lend.

Although Mr and Mrs P have repeatedly claimed that the AIP was a binding promise from NatWest to lend them the money they wanted to borrow, I'm not persuaded they were ever led to believe by NatWest that this was the case. In fact, I'm satisfied that Mr and Mrs P were aware, or ought reasonably to have been aware, that the AIP wasn't a binding mortgage offer, and that their application would be assessed against the lending criteria applicable on the day of their application, on 28 November 2022. I say this because all of this was very clearly explained in the email from the bank dated 27 September 2022, which I've quoted above.

Mr and Mrs P have confirmed they are no longer seeking the additional borrowing they (mistakenly) believe NatWest promised them; instead they want compensation for the time spent dealing with the matter from September 2022 onwards. NatWest offered Mr and Mrs P £50 to compensate them for the inconvenience caused for the time they spent on the telephone with the bank in relation to the abortive application. I think this is fair and reasonable in all the circumstances.

I don't have any power to award compensation for the way NatWest dealt with the complaint. That's because I can only consider a complaint about a regulated activity (in this case, lending money secured on land) or activities ancillary to that, such as account administration, debt collection, etc. The handling of complaints is not itself a regulated activity, nor ancillary to a regulated activity. It is something that the FCA requires financial businesses to do, but that isn't enough to bring it within the scope of a regulated activity, or an ancillary activity, within the meaning of our rules.

Given this, whilst I acknowledge Mr and Mrs P's strength of feeling about what they say are NatWest's failings in relation to its handling of their complaint, I have no legal power to award compensation for this.

### **My final decision**

My final decision is that, in full and final settlement of this complaint, if it has not already done so, National Westminster Bank Plc must pay Mr and Mrs P £50 compensation for distress and inconvenience. I make no other order or award.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

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

Jan O'Leary  
**Ombudsman**