

## **The complaint**

Ms W and Mr D complain that Shawbrook Bank Limited sent letters to Mr D's old address after they had told the bank he no longer lived there, and complain about the tone of the bank's staff on a phone call with Ms W.

## **What happened**

Ms W and Mr D had a joint loan with Shawbrook, which they took out when they were married. When they divorced, they agreed between themselves that Ms W would be solely responsible for the loan repayments, although Mr D remained a party to the loan. Ms W represents Mr D in this complaint.

After Ms W had kept up the loan repayments for a few years, she fell into financial difficulty, and was unable to keep up the payments. In order to pay off the loan, she decided to sell her house (of which she was the sole owner). She told Shawbrook this was how she intended to repay the loan, and asked for some breathing space. Shawbrook agreed to a series of short (typically one-month) payment plans, at the end of which her finances were to be renewed. Ms W complained that these periods were not longer, since the regular contact felt like harassment. In particular, she complained about one phone call in late 2019, in which the call handler's tone had been aggressive.

Shawbrook upheld her complaints about both matters, and paid her £50 compensation (which it off-set against the loan balance in January 2020). But on the same day that the compensation was paid, there was another phone call, involving another call handler, which Ms W also found to be unacceptable, and so she complained about that too – first to Shawbrook and then to our Service. Our investigator upheld that complaint and recommended that Shawbrook pay Ms W another £50, but Shawbrook did not agree. It stood by that call.

Meanwhile, since Mr D was still a party to the loan and was still Shawbrook's customer, Shawbrook continued to send him correspondence in his name. Since Shawbrook did not know his new address, to which he had moved after the divorce, it continued to send letters to the former marital home. When Ms W told Shawbrook he no longer lived there, Shawbrook traced him to his parents' address by searching his credit file, and sent letters there instead. These letters were opened by his parents, causing them some distress. This also upset Ms W, because she had not wanted her ex-husband's parents to find out about her financial problems. When Mr D told Shawbrook his new address by email, Shawbrook would not accept that information by email, and it continued to send letters to his parents' address (although it only sent letters which it was required to send by regulations, and suppressed ordinary mail).

Mr D and Ms W complained about that too, but our investigator did not uphold that complaint. She said that Shawbrook was entitled to refuse to accept an email as an instruction to change an address, and that until a new address was provided in a letter or a phone call, Shawbrook had been entitled to send letters to his last known address (not counting the address provided in the email). Ms W did not accept that opinion. She said that she and Mr D had both told the bank that he no longer lived at his parents' address, and so it

was a breach of data protection law to continue to write to him there.

Ms W and Shawbrook both requested an ombudsman's decision.

### **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 change of address***

Shawbrook's policy is that to accept a request to change the address to which it sends correspondence, the request must be made by the customer concerned – so by Mr D himself, not by Ms W on his behalf – and not by email. That is because it does not consider email to be a secure method of communication, as email accounts can be taken over by fraudsters, and emails can be intercepted and edited. I accept that there may also be ways in which a letter or a phone call might be compromised too, but I think each bank should be allowed a wide margin of discretion to decide for itself how best to protect its customers from fraud, and that I should only interfere if such a policy is manifestly unreasonable.

In this instance, while I appreciate that the letters were unwelcome, I think that Shawbrook acted reasonably in this regard. In coming to that conclusion, I have taken into account the fact that sending letters to a customer's last known address – where "known" excludes an address which has been provided in a manner which the bank will not accept – is standard industry practice. It is not my place to say whether a breach of data protection law has occurred, as that is properly a matter for a court or for the Information Commissioner's Office, but I do not think that every time a bank writes to an address which it knows is no longer occupied by its customer will automatically be a breach in every instance. (By way of analogy, in litigation one party may serve a notice on another party at his last known address even when it is known that he no longer lives there.)

I therefore do not uphold this aspect of this complaint.

#### ***The phone calls***

I do uphold Ms W's complaint about the January 2020 phone call. Before I explain why, I should add for the sake of completeness that I agree that the £50 already paid by Shawbrook is fair compensation for the matters for which it was paid. But the January call came after that, and in my view it fell short of the standard of service I would have expected.

I have listened to the call recording, and my overall impression is that the call handler was out of her depth. There were times when she did not appear to have understood what Ms W had told her, and she often repeated herself as if she either had not taken in Ms W's previous answers, or because she did not know what else to say. I would not always think that was worth awarding compensation for, but I think that further compensation is merited in this case, because of two additional factors.

Firstly, the call handler kept repeating that Shawbrook was going to bring legal action against Ms W, and while there are often cases in which that is a reasonable thing to tell a customer, I don't think this was yet one of them, as things stood in January 2020. Lenders have a duty to treat customers who are known to be experiencing financial difficulty sympathetically and positively, and I don't think that Shawbrook fulfilled that duty on this call. Ms W was already in the process of selling her house, and although that took longer than expected, the sale was still at an early stage at the time of the call. As she herself put it during the call, she already knew she needed to sell the house; she didn't need a judge to

tell her that.

Secondly, the call handler suggested that Ms W should contact her mortgage lender (whose charge on the property was ahead of Shawbrook's in priority) and ask to reduce her monthly payments, so that she would have more money with which to pay Shawbrook. That was outrageous.

Shawbrook denies that its call handler actually said that. Its interpretation of the call recording is that its call handler merely asked Ms W if she had an arrangement to pay with her mortgage provider. Ms W replied that she did not, because the account was not in arrears, and then Ms W asked the call handler if she was suggesting that she should reduce her mortgage payments in order to increase her payments to Shawbrook. Shawbrook says that the call handler denied that she was suggesting anything of the sort. The bank insists that its staff member handled that call correctly.

I am unable to accept that interpretation of the conversation. The following text is my transcript of the call, starting at precisely 22 minutes in:

Ms W: I'm in a really difficult financial position at the moment, and until such time as I can sell the house I'm not in a position to pay any more towards the arrears. I'm paying as much as I possibly can.

SHAWBROOK: Have you got an arrangement in place with your first charge lender, your main mortgage?

Ms W: No, I'm on an interest only mortgage with them, and it's really up to date.

SHAWBROOK: Okay. *[Pause.]* Have you discussed the possibility of an alternative arrangement with them at all?

Ms W: Yes I have, and they can't give me any further lending.

SHAWBROOK: Right, I'm not necessarily talking about further lending, but have you discussed the possibility of reduced payments for a period of time with them?

Ms W: Right, no I haven't, because everything was – I mean, the amount that I'm paying them is affordable.

SHAWBROOK: Right, but it's rendering our payments unaffordable.

Ms W: *[Sigh.]* So what are you saying, I should make payments to pay them less and pay you more?

SHAWBROOK: I'm not necessarily saying that –

Ms W *[agitated]*: Well that's what you are saying I think!

SHAWBROOK: I'm saying have you had a conversation with them to see whether it's a possibility, I'm not telling –

Ms W: No I haven't because I'm not in arrears with them, and I don't particularly want to be in arrears with them.

SHAWBROOK: Right, okay.

Ms W: Because that is my mortgage and that's the first thing that I must pay every month.

That exchange is quite clear and unequivocal. It is very apparent that the suggestion that Ms W should deliberately allow her mortgage to fall into arrears in order to increase her payments to Shawbrook was an idea which definitely originated with Shawbrook, and was not merely a product of its customer's vivid imagination. It should never have been proposed; I trust that I do not have to explain why.

It is not within my remit to punish a bank for misconduct; that is the province of the Financial Conduct Authority. I can only compensate a complainant for her distress and inconvenience. But that phone call was so counter-productive overall that I do not think that £50 adequately reflects the impact it undoubtedly had on Ms W, and I think that £100 would be fair instead.

### **My final decision**

So my decision is that I uphold this complaint in part. I order Shawbrook Bank Limited to pay Ms W £100, in addition to the £50 it has paid her already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Ms W to accept or reject my decision before 13 August 2021. Ms W may respond on behalf of them both.

Richard Wood  
**Ombudsman**