DRN-3825544

Financial Ombudsman Service

The complaint

Mr D complains that Bank of Scotland plc trading as Halifax charged him for a valuation when he wanted to borrow more on his mortgage, but then returned a nil valuation. Mr D said Halifax already knew about the underlying issue, so he wanted the valuation fee back.

What happened

Mr D told us he lives above a public house ("pub"). He said he bought the property with a mortgage from Halifax, and he now wanted to take out more lending. Halifax told him he'd need a new valuation, so he paid £100 for that.

Mr D said he wasn't told that Halifax had changed its policy to not offer mortgages to flats which are above a pub. But he said Halifax already knew this about his flat, so it should have just told him it wouldn't be able to lend him any more. It shouldn't have charged him the valuation fee, when it knew it wouldn't be able to lend. Mr D wanted this money back.

Halifax said that when someone wants to borrow more money, then it will ask for a professional valuation on the property. Halifax said all the valuers and Surveyors it asks to provide it with valuations are registered with the Royal Institution of Chartered Surveyors (RICS). So it thinks these people have appropriate professional qualifications, and it relies on their judgment.

Halifax said there was no appeal against this decision, and it wouldn't give Mr D his money back. It said that the mortgage application documentation Mr D received explained that the valuation fee is non-refundable.

When this complaint came to our service, Halifax said it hadn't previously known that Mr D's flat was above a pub. It said that its lending criteria do change. One of the criteria is that properties have to be readily sellable. It's up to the valuer to reach a judgment on that, based on their specialist knowledge. And in this case, the valuer had concluded that the property was significantly impacted by being above a public house and restaurant, and adjacent to another public house and restaurant, which significantly limits demand and saleability. So Halifax still didn't think it should give this money back.

Our investigator didn't think this complaint should be upheld. She said the valuer thought the property wasn't suitable for mortgage lending. She said Halifax instructs a valuer as it doesn't have the expertise to value the property itself. And it had instructed a properly qualified person. She said the decision was made by the valuer, and Halifax relied on that. She didn't think that was unfair.

Mr D didn't agree. He said Halifax knew he lived over a pub, and it would lend to clients who were buying properties like his until fairly recently. He said Halifax had since changed its policy, and would no longer lend on properties above public houses. So he felt Halifax should have warned him about this, before he paid the valuation fee.

Mr D said Halifax knew his property was above a pub, because documentation sent to it at the time of his purchase told it this. Halifax said it didn't know that, and it hadn't received the documentation Mr D referred to. But it also said something else, which was that the policy which affected Mr D now hadn't changed since he'd bought his flat. It set out this policy for us. It said it appreciated that this was frustrating for Mr D, but it wouldn't refund the fee he had paid.

Mr D wanted his complaint to be considered by an ombudsman, so it was passed to me for a final decision. I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

> I don't think Halifax has to refund Mr D's valuation fee. But I do think it has to pay him some compensation. I'll explain why I think that.
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> At first, Halifax suggested its lending criteria had changed over time, which is why Mr D received a nil valuation for his home now. Halifax says now that this was only ever a possible explanation, but its internal notes show it suggested to Mr D that this could be the reason he received a nil valuation recently. It didn't offer any other explanation to Mr D as to why its view had changed in this way. So I think it is understandable that Mr D thought Halifax's policy had changed, and that he felt Halifax could have warned him about this.
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> But when our service asked for further information about this, Halifax said the criteria hadn't changed, and that there isn't a specific criterion saying it won't lend on properties above a pub. It does ask valuers to reach a view on whether the property is readily sellable, but it did that when Mr D originally bought his flat too. So it now seems that this valuer has just reached a different conclusion on whether Mr D's flat is readily sellable, to the view reached by Halifax's last valuer at the time Mr D made his purchase.
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> I don't know why this assessment has changed. I'm not an expert on the property market, and demand for flats such as Mr D's. But more importantly, nor is Halifax. So it isn't unfair for Halifax to rely on a valuer's professional opinion, even where that opinion is different to one expressed before. I do think it's reasonable for Halifax to rely on the most recent professional opinion it has commissioned.
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> And it doesn't seem as if Halifax could reasonably have been expected to know that this valuer would take such a different view to the previous valuer. If Halifax did have a policy which says that it won't lend on properties above a pub, then I'd have needed to think about whether Halifax was aware that this might affect Mr D, and ought to have alerted Mr D to this. (Mr D says Halifax did know his flat was above a pub, Halifax says it didn't.)
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> But I don't think that has ended up being relevant here, because I don't think Halifax ever did have a policy that said it wouldn't lend on flats above pubs. And I don't think the relevant part of the policy it does have has changed since Mr D bought his flat. As I've noted, a different valuer, some time later, has just reached a different view.
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> I do, however, think that this complaint has been significantly prolonged for Mr D because Halifax suggested to him that the reason for the change was a change in policy. That made Mr D think there was something Halifax could have done to warn him he was likely to be turned down for extra lending, before he paid the valuation fee, when, as I now understand it, there wasn't. Because of that, I think Halifax should pay

Mr D £100 in compensation, for the distress and inconvenience that this prolonged complaint has caused him.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides replied.

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.

Both sides have accepted my provisional decision. Mr D said he welcomed it, Halifax said it would accept the decision to bring this matter to a close.

Neither side has offered any further evidence or argument, and I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that Bank of Scotland plc trading as Halifax must pay Mr D £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 December 2022.

Esther Absalom-Gough
Ombudsman