

The complaint

Mr B complained about what happened when he tried to sell his house, and redeem his mortgage with Bank of Scotland plc trading as Halifax.

What happened

Mr B decided in 2022 to sell his property. He sold it to a family member, and sent Halifax the money to pay off his mortgage on 30 August 2022. But Mr B told us Halifax wouldn't redeem his mortgage. It said there was a freezing order, which prevented it from accepting the money.

Mr B wanted Halifax to accept the money, allow the sale of his property to complete, and to waive interest it charged after 30 August 2022, when he'd first tried to pay the mortgage off.

Shortly before this case came to our service, Mr B went back to court, and obtained evidence that the earlier order was no longer in force. Halifax then accepted that, and redeemed his mortgage. But it wouldn't waive the interest. It said that it couldn't redeem the mortgage until the further evidence Mr B had supplied recently, was received. And it said it acted promptly to redeem the mortgage, once that happened. So Halifax didn't think it had done anything wrong.

Our investigator thought this complaint should be upheld in part, but neither side accepted his resolution, and this case came 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:

Although I don't think Halifax has to pay back all the interest it has charged since August 2022, I do think there has been some delay here on the part of Halifax, and that Mr B has ended up paying more interest, because of this. I'll explain why I think that.

Looking at the internal notes of Halifax's contact with Mr B, I can see Mr B started telling Halifax that he planned to sell his house, in February 2022. On 30 June, the family member who was buying Mr B's house, asked Halifax for a redemption statement.

Halifax asked its redemption team for a statement, and received a response on 18 July saying no statement would be provided. The response was clear on the reasons for this – Halifax understood Mr B was still subject to a freezing order, which meant he wouldn't be able to just sell the house. These notes also set out clearly and helpfully, what Halifax's call handlers can say to Mr B himself, and what they can say to a third party.

The family member contacted Halifax again to get the redemption statement. The notes suggest Halifax had a letter of authority, allowing it to speak to this family member, but

Halifax appears to have had some concerns about speaking to him, or indeed to Mr B on the same or a later call. I do not criticise Halifax for wanting to ensure the safeguarding of its customers, but that doesn't seem to explain why no one, neither Mr B nor the family member who was buying the house, was told anything about the legal order which was in place, in line with the notes provided by the redemption team.

I think Mr B could have been told on 19 July 2022, when he spoke to Halifax about a payment to his account, that Halifax had concerns about the redemption of his mortgage, because it understood that an order was still in place. Our service asked Halifax when it told Mr B this, and it said this happened on 21 September.

Mr B then sought to persuade Halifax that the order was no longer in force. Notes from Mr B's solicitors show he was consistently advised that this was the position, correctly as it turned out. But I don't think it was unfair or unreasonable for Halifax not to accept the evidence Mr B offered on 27 September. That showed a judge decided the year previously that the order affecting the sale would not continue in force if the claimant in that case didn't object within four weeks. But it's what this didn't show that I think is important here. There was simply nothing to show Halifax that the claimant hadn't objected within this time.

For completeness, I should also say that I don't think this was Mr B's fault either. It seems to have been a result of the phrasing of the 2021 order, which set aside the injunction unless further steps were taken by the original claimant. So I think this problem was simply the result of a practical difficulty in showing that the 2021 order had taken effect.

Mr B took further steps to demonstrate this to Halifax. I think that would inevitably have taken some time, and it would also have involved some legal costs. I don't think that time or expense is Halifax's fault, so I don't think it has to either waive interest for this period, or pay legal fees Mr B incurred.

Mr B was advised of the problem with redeeming his mortgage on 21 September 2022. He sent a copy of a court order from 2022, making clear that the 2021 order had taken effect, to Halifax on 23 November 2022.

Halifax accepts that this order wasn't correctly allocated, and so it wasn't actioned immediately. Once it was allocated, Halifax lifted its objections to redeeming the mortgage the next working day. If this allocation mistake hadn't been made, I think this would have been done by Halifax on 24 November, not 5 December.

For those reasons, I think that Halifax did cause some of the delay in this case. And I understand that these are periods for which Mr B has paid interest on his outstanding mortgage. I don't think that's fair and reasonable, and I think Halifax should refund to Mr B the additional interest it charged on his mortgage, as a result of the delays it caused between 19 July and 21 September 2022, and between 24 November and 5 December 2022.

Because Halifax caused some of the delay in redeeming Mr B's mortgage, and in particular because it didn't tell Mr B that there might be an issue with accepting the redemption funds until after he'd committed to a sale and paid those funds across, I think Halifax should also pay £250 in compensation to make up for the distress Mr B was caused.

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.

Mr B accepted the decision. He said he felt it was fair, and he didn't want to offer any further evidence. Mr B wanted to check his understanding of my award. He thought that he would be receiving a total of 77 days of interest, and £250 in compensation.

Halifax asked whether I was also suggesting that interest should be awarded on the refunded sums. I didn't include that in my award, as I thought that the refund noted plus the compensation proposed, did provide a fair and reasonable outcome to this complaint.

I wrote to both sides in this case, to set out the effect of my decision. I said that a refund of interest to Mr B in this case would run for 75 days, not 77. My provisional decision was that Halifax caused two avoidable delays.

The first delay ran from 19 July 2022 to 21 September 2022, but not inclusive of that final day. Briefly, that's because Mr B was told something on 21 September, which he should have been told on 19 July. So the delay starts (meaning interest stops) on the day that Mr B should have been told about problems with his redemption (and as a result, is not charged for a period relating to 19 July 2022 onwards) but then restarts on the day Mr B was told about these problems (so is charged for a period relating to 21 September onwards).

The second delay happened when Mr B's mortgage was redeemed. I thought this could have been redeemed earlier. So the delay starts (meaning interest pauses) on the day that Halifax should have taken action, and then can restart in respect of the day Halifax finally did take that action, on 5 December.

I have explained to both sides that I made that a total of 75 days of interest plus £250 in compensation. And I was concerned my provisional decision suggested that interest would stop, and start, in line with these times, which I don't think would be the right outcome for this complaint. So my email to both sides also explained that I wanted to put Mr B back in the position he would have been in, if these delays had not happened. And I think in that situation, Mr B would have redeemed his mortgage 75 days earlier than he in fact did.

For those reasons, it's the last 75 days of interest charged on this mortgage (plus £250 in compensation) which Halifax would be obliged by my decision to pay. That means Halifax should refund interest charged between 21 September 2022 and 5 December 2022.

Halifax asked whether I would also suggest that interest should be awarded on the refunded sums. I didn't include that in my award, I thought the refund noted plus the compensation proposed, did provide a fair and reasonable outcome to this complaint.

I offered both sides an opportunity to comment further, having received the above clarification. Both sides have replied. Mr B said he was happy with 75 days of interest, plus the proposed compensation. Halifax also replied. I should note that Halifax's reply suggests it has understood I'm proposing it refunds interest it charged during the delays themselves, rather than the last 75 days of Mr B's mortgage. As my email explained, I don't think that's the situation Mr B would have been in, if these mistakes hadn't been made, so that's not the what I propose to award here, or what I've explained to both sides as a result of the questions Mr B and Halifax asked.

I still think this proposal, that Halifax refunds the last 75 days of interest charged to Mr B, provides a fair and reasonable outcome in this case. So I'll now make the above decision.

My final decision

My final decision is that Bank of Scotland plc trading as Halifax should refund to Mr B the last 75 days of interest charged on his mortgage, prior to its redemption on 5 December 2022.

Bank of Scotland plc trading as Halifax should also pay £250 in compensation to make up for the distress Mr B was caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 August 2023.

Esther Absalom-Gough

Ombudsman