

The complaint

Mr D complains he was given wrong advice about the effect of renting out his property on his mortgage with Bank of Scotland plc trading as Halifax. Halifax said he could then increase his borrowing, so Mr D rented out the property. But after he did this, Halifax said no.

What happened

Mr D said he and his partner wanted to add her to the mortgage, and to increase their borrowing. They spoke to Halifax about this, but it said unfortunately, even on their combined incomes, they couldn't increase their borrowing by the amount they wanted, around £35,000 to £40,000. Mr D said he then asked Halifax what would happen if he rented out his property and moved in with his partner, as that would increase their income. Mr D said the advisor was clear that this would then mean they were eligible to borrow what they wanted.

Mr D said he did then go ahead and rent his property out. But after that Halifax said he couldn't borrow what he wanted after all. Mr D said he'd complained, but Halifax wouldn't do anything. So he wanted us to consider this first, then he was proposing to take legal action.

Mr D said not only did he not get the extra lending he wanted, he was now tied into a much more expensive mortgage, because Halifax wouldn't let him take up a new fixed rate deal while his property was rented out. And he said he'd entered into a 12 month lease with his tenants, so he couldn't just change his mind and ask them to move out.

Mr D said this had all been very stressful, and without access to this lending, he'd had to cancel planned arrangements for his wedding. So he wanted Halifax to pay compensation.

Halifax said it had listened again to the relevant call, where its advisor discussed renting out this property with Mr D. And Halifax was confident that all that had happened was a very generic discussion about a number of options Mr D had. Those included renting out the property, but also possibly selling, or remortgaging elsewhere. Halifax said it hadn't advised Mr D to rent out his property, and it wasn't responsible for the decision Mr D then made.

Halifax said when Mr D applied for consent to let, the form highlighted that he wouldn't be able to fix a new rate on his mortgage while he was letting out the property. So Halifax said Mr D agreed to that as part of his consent to let application. Halifax said Mr D's old deal was expiring around the time he rented out his property, so he could have delayed this application until he'd secured a new rate.

Our investigator thought the advisor who spoke to Mr D did give him the impression that he would be able to secure the lending he wanted, if he rented out his property, and thus increased his income. Our investigator thought it was likely Mr D would have let out the property anyway, and moved in with his partner, but he said because Halifax had been unclear, it ought to pay Mr D £100 in compensation.

Halifax said it would pay, as on review, it accepted that the mortgage advisor missed an opportunity to confirm that if Mr D took consent to let, then he couldn't complete further borrowing. But Mr D didn't agree, he didn't feel £100 reflected what had gone wrong.

Our investigator reconsidered, and said he thought £200 was fairer. He accepted that the additional borrowing was never going to be available to Mr D after he rented out the property, based on Halifax's policy. So Halifax should've known this from the outset. But he still thought it was always likely that Mr D would have moved in his partner, and would then have rented out his property, rather than leave it empty.

Halifax agreed to pay the higher amount of compensation, but Mr D still didn't agree. He said he wouldn't otherwise have moved in with his partner until they got married. And Mr D said he was now on a variable rate mortgage, with high monthly payments. He said Halifax did advise him that if he had rental income then he would be able to access £39,000 of extra borrowing.

Mr D wanted to hear the relevant call, so our investigator sent that to him. He also asked for this complaint to be considered by an ombudsman, so it was passed to me for a final decision. And 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 in part. This is what I said then:

I do think Mr D received unhelpful advice from Halifax. But I don't think this means Halifax is solely and entirely responsible for Mr D then renting out his property, and only finding out later that he couldn't access the extra borrowing he wanted, or fix a new mortgage rate.

I'll explain why I think that, and what I think this means for a fair and reasonable outcome to this complaint.

I've listened carefully to the call Mr D and his partner had, which included the conversation about renting out his property. And I do think Halifax said Mr D would be able to borrow what he wanted, if he was going to let out his property at the monthly rent he anticipated.

Although Halifax has said that this advice was all in very general terms, I can hear that Mr D did ask a quite specific question about whether he could then borrow what he'd initially envisaged. And the advisor said, yes, that would be no problem. We know that was wrong.

Halifax says Mr D is limited to borrowing 75% of the value of his property, if he's letting it out, and what Mr D wanted to borrow would have taken him over this percentage.

But I do also I think there are some important points of context that I need to take into account here.

I do think that this was quite a general discussion, as Halifax has said. And as part of that, I have to take into account that what the advisor was actually suggesting to Mr D does seem to me to be a little different to what he actually did. The advisor did explain on this call that Mr D could reapply for his additional borrowing once he had consent to lease, and a letter confirming the anticipated rental income from an estate agent. I don't think the advisor was suggesting Mr D should go ahead with actually renting out the property, then reapply. And if Mr D had done that, instead of moving ahead with renting out the property, then I think the position would have been rather different, and it's likely

Mr D would have discovered the potential downsides to leasing out the property before he committed himself to a tenancy agreement.

So I think that it's not wholly and entirely Halifax's fault that Mr D went ahead with the rental of his property, before coming back to Halifax to make a new application. That's because I don't think this is quite the basis on which the advisor understood he was discussing options with Mr D.

I also think that, because the advice given was otherwise quite general, and because this call then unfortunately dropped at a key point, Halifax didn't have to warn Mr D specifically on this call that he couldn't fix a new rate, while the property was being let out. I note that Halifax did warn Mr D about this before he applied for consent to let, and Halifax's notes indicate that Mr D said he may just have missed this. So I don't think that it's Halifax's fault that Mr D is on a variable rate now.

I've said I don't think Halifax is solely responsible for the fact that Mr D then went ahead, and rented out the property, before reapplying for his extra borrowing. But it does appear that Mr D couldn't ever have borrowed as much as he wanted, if he rented this property out. So I don't think this option should ever have been discussed with Mr D, without that important qualification being mentioned.

Mr D says the repercussions of this are serious -he's moved home and he's committed to a tenancy agreement, but he can't access all the money he wants. I don't think that's entirely Halifax's fault, for the reasons I've set out above. But I do think it's mainly Halifax's fault. So I think Halifax ought to pay more compensation than our investigator suggested, for its role in what's gone wrong here.

There are a number of things I need to weigh up in deciding how much compensation Halifax should pay for the mistake I think its advisor made.

Mr D is clearly very disappointed, and he says the decision to move in with his partner wouldn't have been taken if he'd realised he couldn't fund the wedding with borrowing, once he'd rented out his property. He's told us about the impact this has had and the difficulties it has caused, and I've taken that into account here.

But I also have to consider that Mr D is a little bit better off, because he's rented out his home, so no longer pays the full mortgage or the associated overheads of that property. (I do understand his financial situation would be better if he'd fixed his mortgage before he let the property out. But I don't think that went wrong because of anything this advisor did, and that's what I'm looking to provide compensation for here.)

On balance I think a payment of £500 would provide a fair and reasonable outcome to this complaint, so that's what I currently propose to award.

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.

Halifax said it agreed that it had missed an opportunity to tell Mr D about all the potential outcomes if he was renting out his property. So it would pay the compensation amount I suggested. Mr D said he would also like to accept.

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 £500.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 November 2023.

Esther Absalom-Gough
Ombudsman