

The complaint

Mr and Mrs M have complained about a mortgage they hold with Bank of Scotland plc trading as Halifax. They're unhappy about the rate of interest they've been charged.

Mr and Mrs M were originally represented in bringing this complaint but are now complaining directly without a representative.

What happened

The original mortgage was taken out in 2007 through a mortgage broker. The mortgage offer dated 4 October 2007 indicated Mr and Mrs M were borrowing £350,000 (plus fees) over a term of 13 years on an interest only basis.

The product was 0.36% below Bank of England base rate ("base rate") until 30 November 2009. That gave an interest rate (at the time of the mortgage offer) of 5.39% variable. The offer said that after 30 November 2009 the mortgage would revert to Halifax's standard variable rate ("SVR") which at the time of the offer was 7.75%.

In 2008 Mr and Mrs M took out a further advance through the same mortgage broker. The mortgage offer dated 20 October 2008 indicated Mr and Mrs M were borrowing a further £243,000 (plus fees) over a term of 12 years on an interest only basis.

The product was 1.19% above base rate until 31 October 2011. That gave an interest rate (at the time of the mortgage offer) of 5.69% variable. The offer said that after 31 October 2011 the mortgage would revert to Halifax's SVR which at the time of the offer was 6.50%.

On 1 December 2009 and 1 November 2011 respectively the original mortgage and further advance reverted to the SVR in line with the mortgage offers that had been issued when they were taken out. Both sub-accounts remain on the SVR.

In January 2023 a representative acting on behalf of Mr and Mrs M raised a complaint with Halifax that the interest rate on their mortgage hadn't been varied fairly. Halifax didn't uphold the complaint and so it was referred to our service.

The complaint was looked at by one of our Investigators. She said that Mr and Mrs M had complained too late about the interest they had been charged before January 2017, although she said she would take account of earlier interest rate changes as part of the overall circumstances of the complaint. She then considered the complaint about the interest rate since that date and didn't uphold it.

Mr and Mrs M didn't agree with our Investigator's findings and so the case was passed to me to decide.

In January 2024 I issued a decision about our jurisdiction to consider this complaint and in that I said our service only has the power to consider this complaint in respect of the interest rate charged since January 2017.

However, as I explained in that decision, in considering the part of Mr and Mrs M's complaint about the fairness of the interest rate, it will be necessary to consider the whole history of the interest rate, including before January 2017. That's because changes to the interest rate before that date may have influenced the interest rate charged from then on, and so form part of all the circumstances of the case that I am required to consider.

I've now considered that part of the complaint and am issuing this decision to set out my findings on it.

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.

There's no general obligation on mortgage lenders for their SVRs to track the base rate, and I'm satisfied that this isn't the way Halifax's SVR operated.

I've reviewed the documentation available, and having done so, I haven't seen anything that says Halifax would link the SVR to the base rate or that compels it to. Nor is there anything that suggests that the SVR would be a particular margin above or below the base rate.

It follows that I'm not persuaded that there was any requirement for the SVR to track the base rate or for Halifax to maintain any margin between them.

I've also thought more broadly about whether, and the extent to which, the way in which the terms have been used has resulted in unfair treatment for Mr and Mrs M in the interest charged to them from January 2017 onwards. In doing so, I've considered the historic context which may have contributed to the interest rate charged from January 2017 onwards and whether Halifax had legitimate reasons for varying the rate in the way it did.

I can see that between 2008 and 2009, the difference (or margin) between the base rate and Halifax's SVR increased from 2% to 3%. Whilst Halifax's SVR did reduce during this period, it didn't fall by the same proportion as the reduction in the base rate.

Halifax has told our service that, despite a reduction in the base rate, its funding costs did not reduce to the same extent between 2008 and 2009.

During this time, there was a significant change in the wider lending market as a result of the global financial crisis. This impacted on the funding costs of businesses, which was reflected in changes to a number of lenders' interest rates charged across the market at that time.

Halifax has provided relevant explanations and reasoning behind the decisions made to vary the interest rate during this period. This is supported by evidence that shows the direct impact of its cost of funding and how this correlated with its decision to vary the SVR.

Considering this, I don't think Halifax has acted unreasonably by not passing on all of the reductions in the base rate to its SVR.

I can also see that, in May 2012, Halifax increased the SVR from 3.5% to 3.99% when there hadn't been any changes to the base rate. Halifax has provided evidence to show that its cost of funds had increased and it increased the SVR by 0.49% in order to account for those increased costs. The terms and conditions of the mortgage allowed it to increase the SVR for this reason. Considering this, I don't think Halifax acted unreasonably by doing this.

Since 2012, Halifax's SVR remained at 3.49% above the base rate.

Having considered all the information and evidence available to me, I have not seen any evidence to suggest the changes Halifax made were unfair. Rather, the evidence I've seen satisfies me that Halifax acted in line with its terms and conditions to protect its legitimate interests while balancing its obligation to treat Mr and Mrs M fairly. And I'm further satisfied that the evidence Halifax has been able to provide for this period is corroborated by evidence of wider market conditions at the time.

Taking everything into account, I'm not satisfied that Halifax has acted unfairly or unreasonably in the circumstances.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 15 March 2024.

Julia Meadows
Ombudsman