

The complaint

Mrs R is unhappy at the way Bank of Scotland plc trading as Halifax has dealt with her mortgage account. The mortgage is subject to Consent to Lease (CTL) and because of this Mrs R says that the interest rate she's been charged is unfair, and that Halifax won't offer her a new interest rate product or allow her to transfer the mortgage onto an interest-only basis. Mrs R is also dissatisfied at Halifax's customer service.

What happened

I don't need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here.

In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs R being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision.

Mrs R took out a residential mortgage with Halifax in 2004. In September 2011 Mrs R applied for CTL, which was granted, and which remains in place to date. The CTL agreement dated 26 September 2011 states that Mrs R has agreed either to transfer the mortgage onto a CTL product or, if she doesn't do that, pay an added rate of up to 2% in addition to Standard Variable Rate (SVR) on the mortgage, unless or until she transfers to a CTL product or reoccupies the property.

Also in 26 September 2011 Mrs R transferred the mortgage onto a new interest rate product. The product transfer offer shows that the mortgage of £112,231 was on a repayment basis over a term of 32 years and 9 months. It was on a variable rate of 5.890% above Bank of England Base Rate (BOEBR) until 30 November 2014. After that the loan reverted to a variable rate of 4.690% above BOEBR.

In July 2023 Mrs R raised a complaint with Halifax. She said that Halifax had told her that if she maintained payments for a period of six months arrears on the mortgage account could be consolidated. However, this wasn't correct.

Mrs R was also unhappy about the interest rate she was paying, saying it was too high. She wanted Halifax to reduce or suspend charging interest on the mortgage, due to financial difficulties. Mrs R also wanted the mortgage transferred onto an interest-only basis, but Halifax had refused to do this. Mrs R also complained that Halifax hadn't called her when it had promised to do so.

In its final response letter, Halifax explained that the interest rate Mrs R was being charged was the rate specified in the mortgage contract – 4.69% above BOEBR. Halifax said that the rate was therefore subject to fluctuation in BOEBR, which Halifax wasn't able to predict.

Halifax said it wasn't able to offer Mrs R a new interest rate product, and didn't think it had acted unfairly in relation to the help it had offered when she was in financial difficulty. Halifax said that it had agreed to place a hold on any recovery action in 2021 as Mrs R was selling

the property. Unfortunately the sale hadn't gone ahead, and a payment plan was put in place for three months in June 2021.

In January 2022 a six-month payment arrangement was agreed. Mrs R was told that if she maintained this, Halifax could then look at consolidating the arrears. In the final response letter Halifax acknowledged this wasn't correct and that payments would need to be maintained for twelve months before consolidation could be considered.

For this, and for Mrs R not receiving a call, Halifax paid Mrs R £50 compensation.

Mrs R wasn't happy with this and referred her complaint to the Financial Ombudsman Service. Mrs R said her interest rate was too high, and that she'd not been treated fairly compared with residential mortgage customers, who were routinely offered new products. Mrs R wasn't happy about the customer service she'd received, or that Halifax had refused to transfer her onto an interest-only mortgage or consolidate the arrears to help her during the pandemic.

Our Investigator explained to Mrs R that we could only consider complaint about the interest rate applied to the mortgage for the six years before the complaint was first raised, which was June 2023.

Another Investigator looked at the merits of the complaint, but didn't think it should be upheld. He made the following findings.

- The interest rate had been applied in line with the mortgage offer.
- Halifax wasn't able to offer CTL customers a new interest rate product, unless they moved back into the property and used it as their residence.
- Therefore Halifax wasn't obliged to offer Mrs R a new interest rate product.
- Mrs R didn't meet lending criteria for an interest-only mortgage, so Halifax wasn't able to transfer the mortgage from a repayment basis.
- Since the mortgage fell into arrears in 2019 Halifax had put various payment arrangements in place, and gave Mrs R time to sell the property. He was therefore satisfied that Halifax had been supportive.
- Halifax had accepted it provided incorrect information about consolidating arrears, and that the correct period of full payments the bank needed before it could consider this was twelve months.
- Halifax had also accepted it had missed calling Mrs R back.
- Overall, the £50 compensation offered was fair and reasonable.

Mrs R didn't accept the Investigator's findings. She wanted "*a full investigation*" and said the Investigator was biased.

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 evidence in the case is detailed, running to several hundred pages of documents. I've read everything, and it's apparent that some parts of the evidence are less relevant to the underlying case than others. There are also a lot of duplicated documents and repetition of

arguments. In what follows, I have, by necessity, summarised events in rather less detail than has been presented.

No discourtesy's intended by that. It's a reflection of the informal service we provide, and if I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint. This approach is consistent with what our enabling legislation requires of me. It allows me to focus on the issues on which I consider a fair outcome will turn, and not be side-tracked by matters which, although presented as material, are, in my opinion peripheral or, in some instances, have little or no impact on the broader outcome.

I will also explain that the Financial Ombudsman Service is independent of both consumers and the businesses they are complaining about. This means that we don't act for consumers, nor do we take instructions either from consumers or businesses, or allow either party to direct the course of our investigations; were we to do so, it would compromise our independence and impartiality. It's up to us to determine what evidence we need in order to investigate a complaint. So although I've noted the questions which Mrs R would like answered, it's not my role to put those questions to Halifax or act as a representative or go-between on this case.

The crux of Mrs R's complaint is that she thinks the interest rate she's on is too high. The rate applied to the mortgage since 2017, 4.69% above BOEBR, is the rate specified in the mortgage contract – and is the rate which Mrs R agreed to pay when she applied for CTL in 2011. I acknowledge that 4.69% is a higher margin than Halifax's residential mortgage SVR (which is 3.49% above BOEBR). But this property hasn't been Mrs R's residence since 2011, and so doesn't qualify for a residential mortgage interest rate.

The annual mortgage statements show that Mrs R has been charged at the rate specified in the contract. Given this, I'm satisfied that she hasn't been treated unfairly, as this is the rate which applies to all customers who are on the reversionary rate after their CTL product expired. I don't have any power to tell Halifax what rates it should charge borrowers, or tell Halifax that it should offer Mrs R a new interest rate product. It would not be fair if I was to order Halifax to reduce the interest rate on Mrs R's mortgage, but not other CTL customers' mortgages. But this doesn't mean Mrs R is without options.

Halifax no longer offers specific CTL mortgages, and so can't offer her a new CTL rate. Furthermore, Mrs R wouldn't be eligible for a 'consumer BTL' mortgage. A consumer BTL is a specific type of mortgage designed for borrowers who are 'accidental landlords', for example, where the borrower has had to move away from their home for work, or if the borrower has inherited a property that they cannot sell and need to rent out. But Mrs R has other BTL properties, which makes her ineligible for a consumer BTL mortgage. She would therefore need to arrange a BTL mortgage on the property to get a new interest rate product.

I'm also satisfied that, because Mrs R doesn't meet Halifax's criteria for an interest-only mortgage, the bank isn't under any obligation to transfer her mortgage from capital repayment to interest-only. Where the repayment strategy is a sale of the property, Halifax is entitled to apply a minimum income criteria, which Mrs R doesn't meet. I'm therefore not persuaded that Halifax has acted unfairly by declining a switch to interest-only.

I can see that Halifax has agreed to payment arrangements since 2019, and suspended recovery action pending a sale of the property. I appreciate Mrs R has tried to sell the

property, and a sale fell through in 2021 at the eleventh hour. I note the property is currently on the market, according to online property portals.

Halifax has accepted some customer service failings – Mrs R was told that if she maintained payments for six months, Halifax could then consider consolidating arrears. The correct period was twelve months. However, I'm not persuaded that this has resulted in any detriment to Mrs R, because there was no guarantee that Halifax *would* consolidate the arrears, only that it *could* consider doing so. Any request to consolidate arrears would be subject to affordability, and given the payment history, I'm not persuaded that increasing the balance (and thus the monthly repayment) would have been agreed in any event.

Halifax has also accepted that Mrs R didn't receive call-backs when promised, and has agreed that this wasn't right.

Overall, I think the £50 Halifax has already paid Mrs R for these two customer service failings is fair and reasonable in all the circumstances. I'm therefore not going to order Halifax to pay any other compensation, transfer the mortgage to interest-only or reduce the interest rate on the mortgage.

I don't underestimate Mrs R's strength of feeling about this matter. I've noted what she's said about residential mortgage customers being given better rates and offered new products. But this has been a rental property since 2011, and Mrs R also has other BTL properties, and so this property would fall within her rental portfolio. It's therefore up to her to manage her rental properties, which includes ensuring the mortgage on this property is on the best rate to maximise her return.

Halifax isn't required to provide Mrs R with advice, so if she isn't happy with the interest rate on the mortgage, she can speak to a mortgage broker to arrange a new BTL mortgage on the property. But if Mrs R is hoping to sell the property in the foreseeable future, she will need to factor in any early repayment charge if she takes out a new BTL mortgage on a fixed rate, as this will need to be paid if the mortgage is redeemed during any fixed rate period.

I know this isn't the outcome Mrs R was hoping for. I've taken careful note of everything she's told us, and I can see that during the pandemic things were very difficult for her, as there were rental voids and problems selling the property. But overall, other than the customer service issues identified above, I don't think Halifax has acted unfairly.

My final decision

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 10 June 2024.

Jan O'Leary
Ombudsman