

The complaint

Ms C complains about the offset mortgage she holds with Scottish Widows Limited ("SW"). She said SW got her address wrong, so she didn't get any warning before a large payment was taken. She also thought the way her offset works is unfair, and not properly explained.

What happened

Ms C said she had an offset mortgage with SW. She'd taken out the mortgage in October 2020, but since November 2020 her mortgage debt was fully offset by money in her linked, offset savings account. So she didn't expect to have to make any mortgage payments. But she said that in January 2023, she was unexpectedly charged a large sum of money by SW, almost £3,000, for her mortgage. She said she had no warning of this, and if she had, she'd have taken steps to avoid the payment.

Ms C said SW had made a mistake in her address, and she hadn't got any of the post it had sent since taking out her mortgage in late 2020. She only discovered this when SW sent a letter that needed to be signed for on delivery, and the postman realised the error in the address. Ms C said she was very concerned that important documents containing sensitive financial information had been sent to someone else.

Ms C also said she thought the terms of her offset account weren't clear, and there was no mention that there would be a two month lag in applying the interest accrued on her savings to the payment she was making.

Ms C wanted to make two points about this. The first was she thought it was fundamentally unfair that there should be a two month lag in applying interest against her payments.

Ms C's second point was she thought the terms of the offset account should be made completely clear at offer stage, and she said they weren't. In particular she said this two month time lag wasn't made clear in the offer, and wasn't even mentioned in SW's specific guide on offsetting until page 22. Ms C felt this was a key feature, and should be highlighted as such.

Ms C secured this mortgage with the assistance of a broker, who has also supported her in this complaint. That broker said he was never sent important documents, such as SW's Guide to Offsetting.

Ms C wanted SW to return the interest payment she'd made in January 2023 in full, and she wanted SW to pay £1,000 for the time she had spent on this complaint.

SW said it was sorry about the mistake made over Ms C's address, and it had taken steps to put that right. It wanted to pay her £200 in compensation for that. But SW didn't think it had made a mistake over the charge for mortgage interest.

SW offered to pay for any overdraft charges Ms C had incurred, as she wasn't expecting to have to make that payment, SW's letter about this having gone to the wrong address. But it said it thought the payment was properly charged, under the terms of her mortgage. It

provided an explanation of this, which illustrates why she may be charged either when her mortgage interest increases, or when the interest accrued on her savings in a shorter month isn't quite enough to cover the interest charged on her debt in the next month. SW also said it provides a guide she can download which offers further detail.

Our investigator didn't think this complaint should be upheld. He said it was clear that there was an error in Ms C's address, but SW had corrected this, which was the right thing to do. He thought a payment of £200 was fair for that. He didn't think it was unfair for the full details of how the offset worked to be in the terms of the mortgage rather than the offer itself. He thought the relevant guide was clear, and it wasn't SW's responsibility to explain this to Ms C, as she took out this mortgage with the support of a broker. He understood Ms C hadn't been expecting the payment in January 2023, but he said he hadn't seen evidence of a financial detriment.

Ms C didn't agree. She said the payment itself was evidence of a detriment, and was only made because her statements were sent to the wrong address. She still objected to a two month time lag for offset interest to be applied to her mortgage, and to this being buried in the terms of the mortgage. And she said there were contradictions in how SW had described this mortgage, which we hadn't commented on. She said if SW couldn't understand this mortgage, how was a consumer supposed to? And finally, she sent us evidence that there were still mistakes in the address SW held for her.

Ms C wanted her 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 not propose to uphold it. This is what I said then:

I'd like to start with the incorrect address attached to Ms C's mortgage account. SW has since suggested to our service that this mistake may have originated with Ms C's broker, suggesting the address was wrongly input at the point of application. I don't think that's right. I think the screenshot SW sent us shows that the broker input the right address. I don't know how the subsequent mix-up happened, but I haven't seen anything to make me think that's the fault of Ms C or her broker.

Ms C says that a number of consequences flow from this, including that she had no warning of a sizeable direct debit being taken from her current account to meet the payment on what she had understood was a fully offset mortgage. (I'll look at the payment itself, and how this mortgage operates, in a moment.)

However, this letter was sent to Ms C over two years after she took out her mortgage. In all that time, she says she had received no correspondence at all from SW.

My duty is to determine this complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. And here, I do think that SW is likely to be responsible for the initial mistake in Ms C's address, and therefore also responsible for Ms C's post going astray when she first took out this mortgage. But I do not think I can fairly hold SW responsible for that mistake not having been corrected in over two years. I think it's reasonable to expect Ms C to have queried that she had received no correspondence at all for her mortgage, not even an annual statement, in the more than two years she had been in her new property. So I don't think I can simply hold SW responsible for Ms C not receiving the letter of 7 December 2022, which told Ms C that SW would be requesting a direct debit of just under £3,000 on 1 January 2023.

Ms C says she's around £3,000 out of pocket because of this payment, and she said that if SW had sent this letter to the right address, she would have avoided paying it. However, because I don't think that SW is wholly or mainly responsible for Ms C not receiving this letter, over two years after her mortgage had begun, I don't think SW has to pay Ms C the amount of money she was charged in interest in January 2023.

I can see that SW offered to pay Ms C any bank charges she'd incurred from this unexpected payment, but Ms C didn't provide any evidence of those, or ask us to include this in any award. I will leave it to SW to decide if it wants to make any such payment, if Ms C should provide this evidence in future.

Ms C also says her broker then asked SW to correct the address, but she said that wasn't done. She has shown us an annual statement from April 2023 which still shows the incorrect security address. I have seen evidence that SW has corrected Ms C's address for her main residence, and for her correspondence. It seems likely that this is why Ms C has the 2023 statement. But I haven't seen that SW has corrected the security address, and the document Ms C has shown us suggests it has not. I will require SW to do this as part of my award below, and I'll bear in mind that it doesn't appear to have made that change right away, at the same time as it made other changes to update Ms C's address, when I think about compensation below.

Ms C told us the core of her complaint was about how SW manages this mortgage. She says it's just not fair and reasonable for SW to hide the provisions about a two month lag between a credit and a debit in its terms and conditions. Ms C said this was surely a key feature of any product marketed as an offset mortgage, so she said it should have been explained in the illustration document and offer letter, not hidden in terms.

Ms C also said we hadn't addressed the contradictions between the SW product documents and the content of its final response letter. Ms C said that if SW couldn't understand the product, how could customers be expected to?

I don't think that the terms of this offset are hidden, as Ms C has suggested. The mortgage offer she received sets out the key terms of her mortgage, but also includes the following –

Linked Savings Account

Where all or part of your mortgage is on a variable, tracker or specific fixed rate product you have the option of applying for an Offset Saver Account, which allows you to offset your savings against this portion of your mortgage. Instead of earning interest on your Offset Saver Account, you will not be charged interest on the equivalent amount of your mortgage. Our offset facility allows you to benefit by either reducing the term of your mortgage or reducing your monthly payment. Please refer to the product brochure for further details.

Although I think it would be more helpful if this high level summary (and the other provisions Ms C has drawn our attention to) were to make clear that even a fully offset mortgage may sometimes incur an interest charge, I don't think this provision suggests that it is any more than a high level summary. SW has produced a full guide to mortgage offsetting, which is available to intermediaries through its website, as well as to customers who look this up online. And, as SW has explained, it's the responsibility of Ms C's broker to explain this product to her.

I don't think, as part of this, that it's unfair or unreasonable for SW to set out how its offset works in a separate guide. A mortgage is already a relatively complex financial product, and relevant rules already provide for a considerable amount of information to be set out in a mortgage offer.

In addition to that, Ms C has chosen to take up an offset benefit on this mortgage. That is optional, and there are two different ways that the offset can be operated. They are quite different, and add a further level of complexity to the mortgage. I think it's reasonable for SW to include that detailed information in a separate guide, which is clearly signposted within Ms C's offer.

Turning to that guide, it sets out the two options for an offset account, either a reduced term (explained on page 1) or a reduced monthly payment (explained on page 2). That document does, in my view, set out a clear and well explained set of provisions on how this option works. And the first paragraph in the section on reduced monthly payments includes the following –

The offset benefit you earn each month from the savings in your Offset Saver Account is used to reduce the interest element of your mortgage payment for the following month. We collect your mortgage payment one month in arrears, so it's important to remember the savings balance in one month will reduce the mortgage payment you make two calendar months later. For example, offset benefit earned in April would reduce your May mortgage payment, which would be collected on 1st June.

I don't think this guide contradicts the written advice I've seen that was sent to Ms C. I appreciate that it would be unfortunate if Ms C didn't receive this guide alongside an explanation of its content from her broker when she first took out this mortgage, but I cannot fairly hold SW responsible for that.

I can see that letters sent to Ms C variously refer to the savings interest being applied against the mortgage interest accrued one month later, or the mortgage payment collected two months later, but I think that the fuller explanation provided in the above guide, and also in the complaint response letter sent to Ms C, makes clear that these are the same thing. SW applies interest on offset savings earned in month 1, to the interest which accrues on the mortgage debt for month 2, but then (unlike many mortgage lenders) it only charges for all this in month 3.

I also think this explanation is consistent with the treatment of Ms C's mortgage when her previous more favourable interest rate ended at the start of December 2022. Her offset account had accrued interest in November 2022 at the lower rate, but her mortgage was then charged interest for December at a higher rate. So, although the November interest from her offset account was used to reduce the December payment, the sharp change in interest rates meant she owed much more for December 2022 than she'd earned in November 2022. This is what SW collected by direct debit in January 2023.

I understand that Ms C says it has been difficult to find staff within SW who are able to explain to her how this works, but as I've said above, I do think this is a complex product, and I would expect that Ms C would need to speak to SW staff who are experts in this area, to gain a clear understanding of how it works. However, I think the impact of this mitigated somewhat by the fact that SW has also provided support materials for its customers which I do think are clear and helpful.

For the above reasons, I don't think Ms C's complaint on this point should be upheld.

I'll now turn to compensation in this case. I said above that SW does appear to me to be responsible for the initial mistake in Ms C's address. Although I don't think SW is responsible for the full length of time that mistake went undetected, I do think it ought then to have corrected ALL instances of Ms C's address, and it doesn't appear to have done so.

Bearing in mind all of the above, and in particular the nature of the documents which went astray as a result of SW's initial mistake, I think SW should pay more than it has offered in this case. I think SW should ensure Ms C receives a total of £350 in compensation. SW can count towards that, any payment it has already made to Ms C for this complaint. I also require SW to update Ms C's address across all of its systems, if it has not done so already.

I understand that Ms C will be disappointed, but I don't think SW has to do more than that.

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.

SW replied to say it would pay the additional compensation I had provisionally awarded. It said it had already updated Ms C's address across all of its systems.

Ms C replied, to express her disappointment. She made a number of points in reply.

Ms C said she felt the terms of the offset were fundamentally unfair to the consumer. SW didn't treat credit interest immediately in the same way as it did debit interest. Ms C said that wasn't just in the nature of an offset mortgage, because some other providers in the marketplace credit and debit on the same day. And she said it wasn't a fair provision.

Ms C said when a contract provision is potentially unfair, greater notice should be given of it. Ms C said that in her opinion, this provision was of such nature that it should have been included in the key facts document and not "buried" in the last page of the guide to offsetting.

Ms C said she understood firms were expected to give a higher standard of care to customers, acting in good faith, avoiding causing foreseeable harm to customers and enabling and supporting them to pursue their financial objectives. She said she couldn't see how SW was meeting this expectation with such an unfair contract term. (I should note here that the particular duties Ms C refers to were introduced after the facts of this complaint.)

Ms C said I hadn't linked the fact that SW got her address wrong with the damage she suffered of £3,000 being debited from her account and being non-recoverable for a minimum period of two years. Ms C said she could have been earning interest on this money, but now she might not have access to this money for the remaining term of the mortgage. Ms C said if her address had been correct, then she would have had a chance to rearrange her affairs before this happened.

Ms C said she would take issue with my point that she should have somehow known that her address was wrong because she had not heard from SW. Ms C asked why I thought she would have expected to have heard from SW, when her mortgage was fully offset. And she

said she would have expected SW to use email in any event rather than relying on the post. Ms C said the mortgage rate she chose was fixed for two years, so she wasn't necessarily expecting to hear from SW during this period.

Ms C said she found it difficult to understand my reasoning that it was somehow her responsibility to check SW had the right postal address. She said she could not understand how I had apportioned any blame to her. It was SW's mistake, it had made things worse by blaming her broker, and she had heard nothing of how SW would avoid this happening again, or how it would help her monitor her data to make sure she wasn't being impersonated by someone else who had access to her information. Ms C said that sensitive personal information had been sent to others through the actions of SW. She said whoever had received the correspondence would be aware of her personal situation, and that put her in a potentially vulnerable position. She didn't think SW had given this a second thought.

Ms C said that SW had shown it didn't understand its own product. She sent me emails from SW to her broker, which she said clearly evidenced that SW's own staff did not understand how the product would work. Ms C said it took SW six days to be able to confirm how the offset benefit was calculated, and she thought this was an indication that there is a gap in the staff knowledge as against the printed terms that SW is relying upon.

Ms C asked me to reconsider, in the light of the above. I'll address her points now.

Ms C clearly feels strongly that the contract term which sets out that interest isn't balanced out on her savings and debt on the same day, is at least potentially unfair. Her conclusions on how visible the term should be, flow from that. I'm sorry to have to disagree on that quite fundamental point.

What Ms C has, in essence, is a savings account, linked to a mortgage. The savings account pays interest on the month which has passed. That money is then used to meet the cost of interest charged in advance, for the next month, on Ms C's mortgage.

When they are held separately, it's common for savings interest to be paid in arrears, and for mortgage interest to be charged in advance. I do not think it's fundamentally unfair for these two products to behave in the same way, when they are linked.

Ms C says this isn't just inherent in the nature of an offset mortgage, and she said some providers do credit and debit on the same day. But I don't think SW is the only lender to work in this way. And it's also important to remember here, that SW didn't sell this mortgage to Ms C. If Ms C hadn't understood this mortgage when she purchased it, or if she would have preferred a different sort of mortgage, then the primary responsibility for that lies with the broker who sold this mortgage to her. (This complaint is not against Ms C's broker, and I make no other comment on that.)

Ms C also said the term of this mortgage setting out how the offset works, was buried in the final pages of a lengthy offset guide. But it isn't. I noted in my provisional decision that the offset guide sets out the two ways an offset can work. The option for a reduced term is explained on page 1. The option for a reduced monthly payment, which Ms C has chosen, is explained on page 2. The text I quoted above, is taken from the top of page 2 of that guide. So I don't think this term is hidden in the way Ms C suggests.

Ms C said she links the initial mistake that SW made over her address, with the amount of money she was then charged in January 2023. I explained in my provisional decision that, whilst I do think it is fair to hold SW responsible for the initial mistake about Ms C's address (and I took that into account in my proposed compensation) I don't think it's fair to hold SW

responsible for consequences which, in my view, flow not from the initial mistake, but rather from Ms C not having queried the lack of any correspondence from SW, for over two years.

Our service does generally expect customers to keep an eye on their banking. And here, Ms C said she did know that she'd taken a two year fixed rate, but she also says she wasn't expecting to hear from SW, even when this period was coming to an end. Ms C said she would have expected SW to communicate by email anyway, but she doesn't appear to have queried the lack of emails either.

I still think it's reasonable to expect Ms C to have queried that she had received no correspondence at all for her mortgage in the more than two years she had been in her new property. So I cannot fairly hold SW responsible for consequences which I think are attributable to that, rather than to its initial mistake.

Ms C also said she would be deprived of the payment of £3,000 that she made in January 2023, for at least two years, and possibly until her mortgage was redeemed. But that payment was used to cover interest. It has not been used to reduce her overall borrowing by £3,000. I'm sorry to have to tell Ms C that she won't get that money back.

Ms C said she would have avoided this payment altogether if she'd been aware of it. I've dealt above with the reasons why Ms C didn't get the notification that SW sent. But I should also add that while Ms C holds this offset mortgage, it isn't possible to simply avoid incurring any interest charges at all, ever. If interest rates increase, then it's inherent in how this product works, that there will be a monthly charge. That charge can be limited by reducing the change in rates (for example, by fixing a new rate) but it can't be totally eliminated. Again, this is something that Ms C's broker was primarily responsible for explaining to her, when she entered into this agreement with SW.

Ms C also sent us emails, where her broker queries how her offset mortgage works. The broker sets out there his understanding of what he was apparently told by a SW customer service agent. The SW mortgage contact says he will check this, as he thinks it is wrong, then SW's mortgage contact replies, with a clear explanation and calculation for the charge Ms C paid in January.

I don't know if the broker's retelling is an accurate summary of the explanation given by SW's customer service agent in the first instance. But even if it is, I said in my provisional decision that this is a complex product, and I would expect that Ms C or her broker would need to speak to SW staff who are experts in this area, to gain a clear understanding of how it works. I also said that the clear support materials that SW had provided did mitigate the effect of this somewhat.

Ms C said because it took some time for SW to fully answer her broker's question, she thought even its specialist mortgage staff didn't fully understand the product. But I think what's likely to have taken the time here, is the detailed calculation of interest charged to Ms C in January 2023, which was included with the reply. I don't think this is evidence that SW's mortgage staff struggle with this product.

Ms C also said I hadn't taken into account the other consequences of her mail being wrongly addressed. I'm happy to set out my thoughts on this in more detail.

I don't think it's helpful for SW to have suggested this was her broker's error, but I think that is likely to have been a simple mistake by the person reviewing her complaint.

Our service isn't a regulator, so it's not part of the role of our service to deal with how SW will avoid similar problems in future. I cannot consider that here.

In deciding whether SW ought to do more to help Ms C deal with the consequences of the data breach, I did bear in mind what Ms C had told us of her concerns about the misdirected information. But I also considered that there doesn't seem to be any suggestion of misuse of Ms C's data so far.

If Ms C remains concerned, then she can apply for a protective registration with CIFAS. CIFAS is a member-based fraud prevention agency with a large database. The database records information to protect financial businesses and their customers against fraud. And when someone is concerned that their personal details have been shared inappropriately, they can apply for a Protective Registration on that database. A registration lasts for two years, and it currently costs £30.

If Ms C registers in this way, that will then mean, for the next two years, additional checks on identity will be triggered whenever her details are used in an application for products or services with a provider using this database. The database is used by a very significant number of the UK's financial services providers.

This registration would involve some additional inconvenience for Ms C, not just because she would always have to register herself (SW cannot do that for her) but also because she'll then have to take some extra steps to prove who she is, when she's applying for credit.

I didn't ask SW to pay for such a registration in this case, because I wasn't clear that Ms C would consider the additional inconvenience to be outweighed by the reassurance this provides. Ms C can, however, choose to register herself, if she would like, using the increased compensation I have asked SW to pay.

For the reasons I've set out above, I haven't changed my mind in this case. I'll now make the decision I originally proposed.

My final decision

My final decision is that Scottish Widows Limited must update Ms C's address across all of its systems, if it has not done so already. And Scottish Widows Limited must pay Ms C a total of £350 in compensation. Scottish Widows Limited can count towards that, any payment it has already made to Ms C for this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 27 May 2024.

Esther Absalom-Gough

Ombudsman