DRN-4833967

The complaint

Mr G and Miss C have complained that Bank of Scotland plc trading as Halifax (Halifax) would not honour the rate set out in a dummy illustration it sent to them prior to their mortgage product transfer. They say that Halifax didn't make it clear that they would not get the rate set out in the illustration.

What happened

Mr G and Miss C's fixed rate on their mortgage with Halifax was due to expire on 31 December 2023. They applied for a product transfer with Halifax in July 2023 through their mortgage broker, which would start as of 1 January 2024 (when the existing rate ended). They disagreed with the valuation and were aware that they could be eligible for a better rate if they had a lower loan to value (LTV). Therefore – as they had carried out renovation work on the property and due to the increase in property values in their area – they arranged for Halifax to carry out a revaluation.

Mr G and Miss C say that the Halifax portal did not allow their broker to have sight of the products available to them at the time of application, which meant that they needed to apply blindly and that Halifax would then make them aware of the products they would be eligible for later during the application process. They say that they were sent a mortgage offer directly on 18 July 2023 giving them a rate of 4.67% and they signed and returned the accompanying declaration to accept the offer. Following this, they received another offer dated 27 July 2023 which they say was identical to the earlier pack but with a significantly higher rate of 5.99%, along with a product transfer pack. They say that they did not sign the declaration in respect of the later offer for the higher rate and therefore question why the product transfer pack was sent at the same time.

Mr G and Miss C say that the second set of documents caused them significant confusion and stress. They queried this with their broker who told them that he was unaware of the letters as – as far as he was aware – the valuation was still outstanding and Halifax was therefore not in a position to confirm what rates were available. Mr G and Miss C therefore also say that Halifax has breached the process where offers should be sent via a broker and not directly to a customer.

Mr G and Miss C say that the £40 offered by Halifax is insufficient to compensate them for this and they would like Halifax to honour the rate it first offered them. They say that they assumed that they had a formal offer for a rate of 4.67% and Halifax has attempted to 'gaslight' them into believing that they had accepted the 5.99% rate when they had not. Mr G and Miss C say that the difference in the rate offered will financially impact the family by approximately £4,800 over the two-year fixed rate period. They say this has had a life-changing impact and has resulted in the family having to reconsider its working arrangements, along with lifestyle changes and significant stress and anxiety.

Mr G and Miss C complained to Halifax and say that it has taken an excessive amount of time to investigate their complaint. They also say that it has failed to act in accordance with its Consumer Duty to act in good faith, offer consumers fair value and provide customer support. Mr G and Miss C say that the delay in the outcome of their complaint meant that they had insufficient time to apply for a cheaper product with another lender as they say it was too risky to do this as there might have been delays over the Christmas period meaning their fixed rate would have expired.

Halifax says that when the application was made to switch the product, a revaluation was required in order to allow Mr G and Miss C to select rates for products below 75% LTV. In order to process the revaluation and allow the valuer to be instructed, it needed to send out a ‘dummy’ key facts illustration. Halifax says that issued this on 18 July 2023 showing a rate of 4.67% and then followed this up with an email to the broker confirming that the illustration should be disregarded, which it expected that the broker would have passed on to the customers to make them aware.

Halifax says that it followed the correct process, although accepted that the dummy illustration was not clearly marked as such, which caused confusion for Mr G and Miss C, who had to contact it for clarification. Halifax therefore paid Mr G and Miss C £40 to compensate them for this. It also ensured that feedback was provided in relation to this to see if the process could be improved.

In relation to the illustration, Halifax says that it made the broker aware that this was to be disregarded as Mr G and Miss C did not qualify for this rate and it was not available to them. It says that the product transfer offer was only issued on the 5.99% rate and no offer was issued on the lower rate. Halifax therefore said that it will not offer Mr G and Miss C the lower rate of 4.67%.

Our Investigator looked into Mr G and Miss C’s complaint and concluded that she wasn’t going to ask Halifax to do anything further. She found that their broker was aware of the correct rate prior to submitting the application on 17 July 2023 and requested the product that they were ultimately offered with a rate of 5.99%. Halifax sent the broker an email on 19 July 2023 explaining that the mortgage illustration which had been sent on 18 July 2023 with a lower rate was a dummy illustration and should be disregarded, as the rates would be reviewed once the valuation was returned. The evidence indicated that the broker had explained this to Mr G and Miss C. Overall, the Investigator concluded that she hadn’t seen any information showing that Halifax had made any errors during the process, as it provided the broker with the correct information and acted on the instruction initially provided by the broker. She therefore did not recommend that Halifax offered Mr G and Miss C the rate shown on the dummy illustration.

The Investigator also found that the broker had raised Mr G and Miss C’s complaint in September but had emailed it to the incorrect business, which she couldn’t hold Halifax accountable for. She explained that the way in which Halifax dealt with Mr G and Miss C’s complaint wasn’t a matter she could look into as this wasn’t a regulated activity, or an activity ancillary to a regulated activity.

Mr G and Miss C disagreed with this so the case has come to me to make a decision. They say that it was not clear from Halifax’s illustration letter that this was a dummy illustration and was not a product that they would be eligible for. They also say that the email to the broker about disregarding the dummy illustration did not make it clear that the illustration had also been sent to them.

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.

Having looked at the evidence I agree with the Investigator’s view for broadly the same reasons and I've explained my reasons further below.

I’ve given careful consideration to all the submissions made by both parties, but I won’t address each and every point that has been raised. I’ll focus on the matters that I consider most relevant to how I’ve reached a fair outcome in keeping with the informal nature of our service.

Mr G and Miss C's broker contacted Halifax on 17 July 2023 and I've listened to this call. The broker asked how to instruct a new valuation for a product transfer and Halifax explained how this would be arranged. The broker also said that he didn't know what the rates for below 75% LTV were and the adviser told him where to locate these. The broker then confirmed that he knew where to find these and that he would look at them to see if it was worthwhile going through the revaluation process.

Whilst Mr G and Miss C have said that the broker did not have sight of the products available when he made the application, I am satisfied that this is incorrect. I say this as, following the conversation with Halifax, the broker applied for the product transfer requesting product FDY780 – a two-year fixed rate at 5.99% – and requesting a revaluation. I have seen a list of the products which would have been available to Mr G and Miss C via their broker on 17 July 2023 and FDY780 was one of them. The rate on the dummy illustration was not available to Mr G and Miss C on this date. Therefore, I am satisfied that the broker was aware of the rates available to Mr G and Miss C and selected the rate which was ultimately offered.

Halifax has explained that when a revaluation is requested, its broker support team needs to key an application into its system in order to instruct the surveyor. As the product FDY780 had a maximum LTV of 75% - and the existing valuation meant the mortgage was above 75% - Halifax wasn't able to select the requested product. Therefore, the agent had to select any rate which was showing on the system so that the application could progress. This meant that a key facts illustration was produced, which includes a declaration form as standard..

I have seen a copy of the mortgage illustration dated 18 July 2023 which showed the product HZE897 with a rate of 4.67%. This set out that the illustration was only valid on the day of issue and that, after that date, it may change in line with market conditions. I also note that this was an illustration, as opposed to being a formal mortgage offer.

I can see that Halifax sent an email to Mr G and Miss C's broker on 19 July 2023 thanking him for his product transfer application and asking him to note that "*A placeholder illustration has been created to allow us to instruct a valuation. Please disregard this as we will review the illustration once the valuation returns. If the valuation comes back less than the estimate provided you will be required to select a new product at that stage*."

So, whilst I can understand that receiving the dummy illustration was confusing for Mr G and Miss C, I am satisfied that Halifax made the broker aware that this was only a placeholder for the purposes of instructing the revaluation. And I think it was reasonable of Halifax to believe that the broker would explain this to Mr G and Miss C. Halifax has paid Mr G and Miss C £40 as a result of the confusion caused by the letter and I think that is reasonable in the circumstances. I note that Halifax has now reviewed its process and suggested that the customer should also receive the email advising that the rate should be disregarded as well as the broker.

I also note that, when signing and returning the declaration form accompanying the key facts illustration dated 18 July 2023, Mr G and Miss C included a covering letter. This stated "*The application is for a product that we did not want or intend to apply for. We understand that the portal did not have the products listed for the LTV we are applying for. The Halifax advice was to submit and [sic] application and revise the product after application (and after the valuation had taken place). We are signing the declaration for this application based on the advice you have provided to us and on that understanding*".

Mr G and Miss C have explained that they weren't aware of the product being applied for and that they were hoping to get offered a lower rate than that specified in the illustration. As set out above, the broker had already applied for a product with a rate of 5.99% in the application he made on 17 July 2023, so any issue with regard to this should be directed to the broker if he didn't make Mr G and Miss C aware of the product he had applied for on their behalf. In any event, I am satisfied that they were aware that the rate shown on the illustration was not necessarily the rate that they would be offered and that this would be revised once the valuation had taken place.

Once the revaluation was completed, the mortgage was confirmed as being less than 75% LTV. This meant that the illustration was amended to the rate initially requested by the broker with product code FDY780. The offer was generated as Halifax had already received the signed declaration form from Mr G and Miss C.

Mr G and Miss C have also said that Halifax didn't send the mortgage offer to the broker. However, I have seen evidence to show that Halifax emailed to the broker at 13:46 on 27 July 2023 confirming that it had made a product transfer offer, including a link to the offer, and advising that the offer had also been sent to Mr G and Miss C.

Mr G and Miss C have also complained that Halifax took an excessive amount of time to resolve their complaint, meaning that they could not apply elsewhere. I can see that their complaint was raised with Halifax by their broker on 18 October 2023.

Whilst Mr G and Miss C say that their complaint was raised with Halifax earlier than this, I am satisfied that this is not correct. Although the broker sent an email about the complaint to someone else in his organisation on 14 September 2023, who then sent it to the broker's network (another business unrelated to Halifax), the complaint didn't make its way to a Business Development Manager (BDM) at Halifax (via the broker's network) until 13 October 2023. The BDM confirmed that he would look into the complaint and tried to contact the broker on the next working day (16 October 2023). He called the broker again on 18 October 2023, which is when the complaint was set up. So I can't find that Halifax is responsible for Mr G and Miss C's broker's failure to send the complaint to the correct organisation. Again, this would be an issue for Mr G and Miss C to raise with the broker if they are not happy with the way he raised their complaint.

Halifax logged the complaint on 20 October 2023, sent an email to the broker acknowledging the complaint on 24 October 2023 and then sent its final response on 30 October 2023. Halifax has up to eight weeks to respond to complaints from customers before a customer can bring the complaint to this service. Therefore, I do not consider that just over two weeks is an excessive time for Halifax to respond to the complaint once it had actually been received.

The offer was produced on 27 July 2023 and I am satisfied that this would have given Mr G and Miss C sufficient time to apply for a mortgage with another lender if they were unhappy with the rate, before their existing product expired on 31 December 2023. Whilst I can appreciate that they wanted to know the outcome of their complaint first, they still had two months after Halifax sent its final response within which to apply elsewhere before the existing rate expired and I don't think it would be unrealistic for an application to be dealt with within that timeframe.

Mr G and Miss C have said that Halifax hasn't acted in accordance with the Consumer Duty. The Consumer Duty came into effect on 31 July 2023. Mr G and Miss C have said that they had contact with Halifax after 31 July 2023, so they say the Consumer Duty should be applied to any product or contact they have had with Halifax after this date. However, the Consumer Duty doesn't apply retrospectively and the issue Mr G and Miss C are complaining about – the issuing of the dummy illustration – occurred before this date, therefore the Consumer Duty does not impact upon my decision in the circumstances of this case.

I know that my decision will come as a disappointment to Mr G and Miss C, but I can't say that anything Halifax has done has caused them to lose out financially and therefore I don't uphold this complaint.

My final decision

For the reasons I've explained above, I don't uphold this complaint and don't require Bank of Scotland plc trading as Halifax to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C and Mr G to accept or reject my decision before 26 September 2024.

Rachel Ellis
Ombudsman