

The complaint

Mr and Mrs K complain that Bank of Scotland plc trading as Halifax treated them unfairly when their mortgage was in arrears. Mr K has dealt with the complaint.

Mr K asked for a scheduled court hearing to be delayed for at least a month to allow him time to make a payment and agree a plan.

What happened

Mr and Mrs K's mortgage has been in arrears for some years. By late 2024 the arrears were over £40,000 and Halifax hadn't received a payment into the mortgage account for more than a year. In late 2024 Halifax started legal action. A court hearing was scheduled for January 2025.

Mr K says Halifax prevented them resolving the arrears due to its mistakes and misrepresentations. Mr K says Halifax failed to provide clear, consistent, and accurate information; coordinate its internal processes to provide helpful support; offer a proper resolution to the arrears in a timely manner; follow through on its commitments to resolve issues; or handle the case with sensitivity to their emotional and mental well-being.

When Mr K spoke to our investigator about his concerns, he said he said he wanted to be treated fairly. He said the option of selling the property hadn't been discussed. Mr K said he wanted Halifax to meet its obligations regarding its awareness of their family mental health crisis and to be open and honest about what's needed so they can do it. Mr K said they can make the monthly payments and prove sufficient income and expenditure. As a remedy to the complaint, Mr K said he wants to know where he is and for the court hearing to be delayed.

Halifax said it took legal action due to the level of arrears. It said it needed to put a legal agreement in place for the arrears to be cleared or to be granted possession. Halifax paid £100 to Mr and Mrs K for not making it clear to Mr K that once his complaint was resolved and it had made reasonable efforts to contact him, it would proceed with legal action.

In January 2024, Mr and Mrs K agreed a payment plan with Halifax and a payment was made into the mortgage account. The court hearing was adjourned.

Our investigator said given the level of the arrears it was reasonable for Halifax to ask for information about Mr and Mrs K's financial situation and to commence legal action when no agreement was reached to repay the arrears. Our investigator said while Halifax made errors this didn't prevent Mr and Mrs K making payments to their mortgage account.

Mr K asked that an ombudsman re-consider the complaint. Mr K said although Halifax had adjourned the hearing, he wanted to continue with his complaint as the matter should not have got to that point. He says Halifax didn't treat him with respect. And he says it made an error with his email address that delayed him sorting out the position with the arrears.

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 accepts it made some errors, and offered compensation to Mr and Mrs K. When Mr K brought the complaint to us, he didn't ask us to look into all of the complaints he raised in 2024. His complaint was about the legal action taken by Halifax, which he said was premature and unfair. Mr K says their mortgage is in arrears and they've been unable to sort this out due to Halifax making errors and treating them unfairly.

Mr and Mrs K's mortgage has been in arrears for some years. The arrears were capitalised following a previous complaint to this service in 2022. Mr and Mrs K didn't maintain mortgage payments and by late 2024 the arrears were over £40,000. Halifax's notes say Mr and Mrs K were in financial difficulties due to ill health.

Mr K provided information to Halifax about their income and expenditure in August 2024. He said their financial position had improved. Mr K told Halifax the health problems affecting the family did not impact on their finances. Halifax didn't agree a payment plan at that time. It says it was concerned that the plan wouldn't be kept, given Mr and Mrs K's payment history and that the previous plan was broken. Halifax says it explained to Mr K the importance of making mortgage payments. Mr K said he'd make a payment in September 2024.

Mr and Mrs K didn't make any payments to the mortgage account.

Mr K raised complaints. He was upset about questions asked on a call with Halifax and the scripted information read to him about information being reported to the credit reference agencies. During a call with Mr K in October 2024, Halifax incorrectly said it wouldn't proceed with legal action without speaking to him again. Halifax said it tried to call Mr K but was unable to get in contact with him by phone. It wrote to them instead. And Halifax left a message asking Mr and Mrs K to get in contact on a neighbour's phone number. Mr K raised a further complaint about Halifax contacting him about the arrears while he had complaints open.

I appreciate that Mr K wanted a response to his complaints. However, this didn't stop Mr and Mrs K from making payments to their mortgage account, if they were in a position to do so, or agreeing a payment plan.

Halifax didn't speak to Mr K by phone before starting legal action, despite saying on a call in October 2024 it would do so. While I appreciate Mr K's frustration about this, I think Halifax made Mr and Mrs K aware that it would proceed with legal action. It sent a letter to them dated 6 November 2024 which said if a plan wasn't agreed solicitors would be instructed.

Halifax instructed solicitors and wrote to Mr K. It said if Mr K contacted the solicitors with the required information and made a payment it could set up a plan. If this happened, it said it would ask the court for a suspended possession order.

I don't think it was unfair for Halifax to take legal action, given the payment history and level of mortgage arrears. I think Halifax provided clear information to Mr and Mrs K in mid and late 2024 about what they needed to do to avoid legal action. Halifax told Mr K that he needed to agree a payment plan and make a payment of the agreed amount.

Halifax had an out of date email address for Mr K in its records. It says Mr K hadn't told it he'd changed his email address. Halifax says the fact that Mr K was using a different email address should have alerted it to the address in its records being out of date.

Mr K says the solicitors used the out of date email address. He said this resulted in a two week delay in him receiving an email from the solicitors with information about income and expenditure and that they could apply for a suspended possession order if he made a payment and demonstrated affordability. This meant he had less time to sort matters out before the date of the court hearing.

If Halifax made an error which resulted in the solicitors using an out of date email address (and I'm not making a finding about that), I can't fairly agree that this prevented Mr and Mrs K making a payment to their mortgage account or getting in contact with the solicitors. Halifax had already made Mr and Mrs K aware of the need to agree a payment plan and make an agreed payment. Mr K told our investigator during a call in December 2024 that he knew he needed to do this.

Mr K provided income and expenditure information to Halifax in early January 2025. Halifax says this showed sufficient income for Mr and Mrs K to make their contractual monthly payment plus an amount towards clearing their arrears. Halifax asked Mr and Mrs K to contact its solicitors to discuss setting an arrangement to present to court. It said they'd have to make a payment of the agreed amount for the plan to be set. It said if they did this it would request a suspended possession order. Mr K called Halifax with a family member who made the payment. The court hearing was adjourned on 8 January 2025.

Mr K says the matter should not have got so close to a court hearing. I don't think the reason the hearing wasn't adjourned earlier was due to an error by Halifax. I think the reason the hearing wasn't adjourned earlier was because Mr and Mrs K didn't agree a plan and make a payment into the mortgage account until 6 January 2025.

Halifax accepts it made errors and offered compensation. Having carefully considered what Mr K has said, I don't think these errors prevented Mr and Mrs K taking steps to deal with the arrears, agree a payment plan or make payments into the mortgage account.

Mr K said Halifax failed to handle the matter with sensitivity to their emotional and mental well-being. He says Halifax was aware that the family were in a mental health crisis. Mr K says the stress of dealing with this matter contributed to the onset of a medical condition.

Halifax was aware of Mr and Mrs K's difficult situation. It needed to pay appropriate regard to their needs, consider how it could support them and ensure they understood what options were available to them.

Mr and Mrs K have significant mortgage arrears and that must be worrying for them. It's understandable that the prospect of a court hearing (which could result in Halifax being granted a possession order) would be stressful. I appreciate that discussions about mortgage arrears might be upsetting. But the aim of these discussions is to help Mr and Mrs K to get their mortgage back on track. I think it was appropriate and fair for Halifax to contact Mr and Mrs K with this aim.

I think Halifax gave Mr and Mrs K clear information about what they needed to do to avoid it taking or continuing with legal action. I don't think it misled them or made errors that prevented them dealing with their arrears.

A lot of the stress Mr and Mrs K experienced was likely due to their financial difficulties, the health problems of family members and the level of their mortgage arrears. However, the errors made by Halifax will have added to this. Having considered these errors and the effect they had on Mr and Mrs K, I think the compensation paid by Halifax (£100 for saying it would speak to him before starting legal action and £80 for leaving a message on a neighbour's phone) is fair and reasonable in the circumstances.

Halifax says it hasn't received any payments from Mr and Mrs K since January 2025. It says Mr K told the solicitors in March 2025 that he'd agreed a sale of the property.

Halifax says it will hold action if Mr and Mrs K make the agreed payments, which the income and expenditure information Mr K provided in early 2025 suggests are affordable. If the sale of the property is going ahead, Halifax says it will hold action if Mr K provides relevant documents regarding the sale. Otherwise, it's likely that it will apply for a new court hearing date.

I'd encourage Mr and Mrs K to contact Halifax with the information it needs to evidence the sale of the property, or to make mortgage payments as agreed in January 2025.

My final decision

My decision is that I do not uphold this complaint. That's because I think the compensation paid by Bank of Scotland plc trading as Halifax is fair and reasonable in the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K and Mr K to accept or reject my decision before 30 April 2025.

Ruth Stevenson
Ombudsman