

The complaint

Miss B and Mr C complain that Bank of Scotland plc trading as Halifax unfairly reported adverse information to credit reference agencies following a late payment to their mortgage.

What happened

Miss B and Mr C have a repayment mortgage with Halifax. In August 2024, they owed approximately £204,000 and had approximately 33 years remaining. Their mortgage rate was fixed at 4.83% until October 2026 and their contractual monthly payment (CMP) was £1,033.81.

On 28 August 2024 Miss B and Mr C's bank account, again, with Halifax, held insufficient funds to allow the direct debit for the mortgage to collect payment. Miss B and Mr C transferred sufficient funds into their bank account later that day, but the direct debit collection had already failed. Halifax next tried to take the CMP for August on 11 September 2024 and that was successful. Halifax reported the status of the mortgage account to credit reference agencies (CRAs) at the end of August.

Miss B and Mr C say they became aware of the adverse payment marker on their credit files on 16 October 2024 and discussed the matter with Halifax, via its online portal, on 17 October 2024. But Halifax refused to remove the marker because it said it hadn't made an error. Miss B and Mr C say that's unreasonable because the funds were available on the due date. They also say they received a letter three days after the due date that said Halifax would try again 10 days later but that letter didn't inform them of the impact to their credit files. Miss B and Mr C complained to Halifax.

In its final response letter dated 21 October 2024 Halifax said it had reported the status of Miss B and Mr C's mortgage account correctly and would not be able to change its reporting.

Dissatisfied with Halifax's response, Miss B and Mr C asked us to consider their complaint. Our investigator didn't uphold Miss B and Mr C's complaint. He said Halifax's website states it will attempt to take payment shortly after midnight on the day it becomes due. And, if unsuccessful, it would try again at 14:30 hrs, on the same day. He also said that Halifax sent Miss B a text message saying unless sufficient funds were paid into the account by 14:30 hrs, the payment may be declined. Our investigator said Miss B and Mr C's CMP wasn't made in the month it was due, so it wasn't unfair for Halifax to report that to CRA's.

Miss B and Mr C didn't agree. They said there was a two-hour delay in making their funds available for their mortgage payment. And it's clear that they could afford the payment, so their credit records do not reflect their true circumstances. They say they should have been given a longer grace period to make the payment. They also say the reason the payment was ten days late was because of a letter Halifax sent to them saying take no action, payment will be taken in 10 days.

As Miss B and Mr C did not agree with our investigator, their complaint has been passed to me to decide.

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.

To decide Miss B and Mr C's complaint, I've thought about whether Halifax attempted to take payment for Miss B and Mr C's mortgage reasonably and whether its reporting to CRAs was fair.

Firstly, I'd like to acknowledge the impact on Miss B and Mr C of what's happened. Miss B and Mr C have told us about the decline in their credit scores since the late payment and what that has meant for them in terms of personal plans which rely on a 'good' credit rating. So, I understand that they must feel that the impact on them is disproportionate to what happened on 28 August 2024. They've said that they were two hours too late, but their bank account did have enough funds in it on the day their mortgage payment was due. And the damage to their credit rating – and what that says about their credit worthiness – doesn't truly reflect what's happened.

However, my role is to decide whether Halifax made an error and/or acted unfairly or unreasonably. So, while I acknowledge the impact on Miss B and Mr C, I'm not deciding whether the impact on them was disproportionate.

Halifax has explained that it initially tries to collect via the direct debit soon after midnight on the day a mortgage payment becomes due. And, if unsuccessful, it would try again at 14:30 hrs. It's showed that it did that in this instance. Halifax also showed that information is available on its website. And I've seen that it texted Miss B at 08:04 hrs saying:

"...You're using an unarranged overdraft. You have a payment due today. Please pay money in by 2.30pm or the payment may not be made."

I wouldn't necessarily expect Miss B and Mr C to know exactly when Halifax attempts collection on the day their mortgage payment is due, just because the information is on its website. But it is Miss B and Mr C's responsibility to make sure their mortgage payment is made – not Halifax's. And I don't think it's reasonable for them to assume that Halifax will make numerous attempts at collection throughout the day or make a final attempt at the end of the day. So, I think it was Miss B and Mr C's responsibility to make sure their mortgage account held sufficient funds at the beginning of the day their mortgage payment was due.

Even if I allow that the beginning of the day should equate to the start of business hours, Halifax's process meant that Miss B and Mr C could miss the deadline for Halifax's first attempt at collection and still have sufficient funds in their bank account for its second attempt at 14:30hrs. And despite it being Miss B and Mr C's responsibility to ensure payment of their mortgage, Halifax informed them by text on 28 August 2024 that they needed to take action. So, I think Halifax acted fairly on 28 August 2024 and I think its collection process was fair.

Halifax wrote to Miss B and Mr C on 28 August 2024 saying it couldn't take payment. Miss B and Mr C say that letter was misleading in that it didn't inform them of the impact to their credit file. Miss B and Mr C provided page one of the letter they received. I can't see from the copy they sent that the letter does contain information about the impact on credit files. Halifax says it sent them a system generated letter the following day informing Miss B and Mr C that Halifax would attempt collection again in 10 working days. It's provided us with a copy of that letter template. That letter says:

“If payment is taken from your bank account in the month after it was originally due, it could affect your credit score as this will be a late payment.”

Miss B and Mr C say that letter was misleading because it said if Miss B and Mr C want to pay another way, they could end up paying twice. So, they say that letter put them off making payment sooner than 10 working days. But, in the same paragraph that letter also says:

“If you want to talk about how you pay or you’ve paid separately, give us a call.”

With regard to Halifax’s communication overall, I think Miss B and Mr C were informed they needed to fund their bank account sufficiently, in good time; I think they were informed of a possible impact on their credit file – though I also think Miss B and Mr C ought to have known that; and I think they were told to call if they’d made payment separately – so could have done so before 10 working days. I think, having missed the payment collection at 14:30 hrs on 28 August 2024, it was Miss B and Mr C’s responsibility to make a manual payment before the end of August 2024 to ensure they were not in breach of the terms of their mortgage and their credit files were not affected.

As I’ve said, I know Miss B and Mr C think Halifax’s reporting to CRAs disproportionately affects them and so is unfair. But Halifax – like all lenders – has a duty to report accurately the status of all of the credit facilities its customers have with it. And it does so at the end of each month. So, when it did so at the end of August 2024, the status of Miss B and Mr C’s mortgage was that the payment due in August had been missed. That means I think it was Halifax’s duty to report that to CRA’s. And I don’t think it did so unfairly.

When a lender reports to CRA’s, it simply reports on the status of the respective credit facility. It has no control over how that appears on the various CRA reports available or how that, in turn, will be interpreted by interested parties conducting credit searches. So, Halifax isn’t responsible for the impact its accurate reporting has on borrowers.

Overall, I think Halifax’s attempts to collect Miss B and Mr C’s mortgage payment for August 2024, and its communication about that, was reasonable. And I think Halifax reported the status of Miss B and Mr C mortgage fairly to CRA’s, as was its duty.

My final decision

My final decision is I don’t uphold Miss B and Mr C’s complaint about Bank of Scotland trading as Halifax.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss B and Mr C to accept or reject my decision before 15 May 2025.

Gavin Cook
Ombudsman