

The complaint

This complaint is about an expired interest-only mortgage Mrs and Mr K hold with Bank of Scotland plc trading as Halifax. The essence of the complaint is that Mrs and Mr K believes Halifax is harassing them to repay the mortgage, and are unhappy that it has continued to charge interest on the overdue balance since the mortgage term expired in 2013.

What happened

In what follows, I have set out events in rather less detail than they have 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.

Our decisions are published and it's important that I don't include any information that might result in Mrs and Mr K being identified. Instead I'll give a brief summary in my own words and then focus on giving the reasons for my decision.

Mrs and Mr K took this mortgage on the advice of a third party intermediary. The mortgage offer records that they told Halifax that their strategy for repaying the mortgage was an endowment policy and an ISA. The mortgage term expired, and the balance fell due for repayment, in 2013. Mrs and Mr K didn't repay the mortgage, Halifax continued to charge interest and Mrs and Mr K continued to make payments.

In 2022, Halifax first threatened to take possession proceedings. In January 2024, Mrs and Mr K brought a complaint to us about Halifax not putting a hold on recovery action in July 2023 whilst they were trying (unsuccessfully as it turned out) to arrange alternative finance. That complaint was upheld in a final decision from a fellow ombudsman in August 2024.

The current complaint started in late 2024, and Halifax issued a final response on 24 December 2023, covering three subjects; these were:

- the ongoing charging of interest since 2013;
- a new interest rate product not being made available; and
- the legal action from 2023.

Our investigator explained that the time limits in our rules only allowed us to look into Halifax's treatment of Mrs and Mr K in the six years immediately preceding the start of the complaint. He further explained that his consideration of that period would exclude the events that were addressed in the August 2024 final decision. The investigator didn't think

Halifax had treated Mrs and Mr K unfairly. Mrs and Mr K have asked for the case to be reviewed by an ombudsman.

What I've decided – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service.

Those rules include time limits, and we revisit our jurisdiction over a complaint at every stage. For completeness, I agree with our investigator that my remit over this complaint is confined to events in the six years leading up to the complaint, but excluding those that were addressed by my ombudsman colleague. We don't look at complaints more than once. Much of what Mrs and Mr K continue to be unhappy with was dealt with in the predecessor complaint to this service, and our consideration of that case concluded in August 2024.

The complaint before me now was brought after that, and relates to events both prior and subsequent to those we addressed in the earlier complaint. If I mention any other matters, it will be for context only.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My starting point here is that this mortgage was originally due for repayment in 2013. Halifax has allowed Mrs and Mr K more time to pay the money back; it didn't have to do that. As far as charging interest is concerned, it's normal industry practice, and part of the original mortgage terms and conditions, that interest will be charged on any outstanding balance until it is repaid.

Contrary to what they told Halifax when applying for the mortgage, it seems Mrs and Mr K's strategy for repaying the debt is to either to sell the mortgaged property or re-finance. They seem to be preferring the latter, which is understandable. Halifax has shown a more than reasonable degree of patience towards Mrs and Mr K whilst they try to put new finance into place.

Mrs and Mr K has challenged Halifax on why it hasn't offered them a lower interest rate; that's a forbearance option that a lender is required by the regulator to consider, but isn't obliged to provide; it's dependent on the individual circumstances in each case. Here, the problem is that a lower rate isn't realistic in Mrs and Mr K's specific financial circumstances. For a lender to grant an interest rate product, the mortgage has to have a remaining contractual term that exceeds (or at the very least matches) the term of the product. But Mrs and Mr K's mortgage has no remaining contractual term. By failing to repay the mortgage when it was due, Mrs and Mr K breached the mortgage contract, and that contract has now expired.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I can see how strongly Mrs and Mr K feel. That's a natural, subjective reaction,

and entirely understandable in the circumstances. Be that as it may, I have to take a different approach. I'm impartial and I have to look at things objectively. That's what I've done.

That begs the question of what happens next. I don't know what Halifax's intentions are regarding enforcement of its security over the mortgaged property. But clearly that is something it can consider as a next step. It's important to explain here that lenders will generally agree not to pursue recovery action whilst we look at a complaint, but they don't have to and we can't force them to.

If the Financial Ombudsman Service had that power it would undermine our impartiality between the parties to a complaint. It would also create the potential for consumers to use our service to bring complaints with the intention of having any legal action put on hold, thereby obstructing businesses that were trying to take action through the courts to recover money legitimately owed by the consumers.

I do not wish to alarm Mrs and Mr K but I would not want them to be under any misunderstanding that we would tell Halifax that it must delay recovery action in the event of any new complaint being raised about the mortgage. It is a matter for a court to decide whether it is appropriate to adjourn or suspend any legal action, not this service.

I know this isn't the outcome Mrs and Mr K wanted. They are faced with the prospect of having to find a significant sum of money to repay their mortgage, or else sell their home. If they do neither, Halifax could potentially enforce its security. That's a daunting prospect for anyone, and I'm not unsympathetic to Mrs and Mr K's comments about having to deal with such a situation in their late seventies. However, whilst I don't wish to be unkind, I have to keep in mind that the mortgage fell due for repayment in 2013, when they were a lot younger than they are now.

Everything has a context, and here, that context is that Mrs and Mr K's mortgage is now twelve years overdue for repayment. Halifax has shown Mrs and Mr K remarkable patience over the years; it has an ongoing regulatory duty to treat them fairly, but that duty does not extend to waiting indefinitely for them to repay the mortgage debt.

My final decision

My final decision is that I don't uphold this complaint or make any order or award against Bank of Scotland plc trading as Halifax.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr K to accept or reject my decision before 8 September 2025.

Jeff Parrington
Ombudsman