

The complaint

Mr P complains that Bank of Scotland plc trading as Halifax instructed a solicitor under its 'free legal's' service when they couldn't be used as Mr P's property was self-built. He complains that this led to a new solicitor needing to be instructed at the last minute, leading to significant costs, distress and inconvenience.

What happened

Following advice from a third-party broker, Mr P applied for a mortgage with Halifax on 7 February 2025. As I understand it, this was to repay existing finance secured on the subject property and to raise some additional funds. Mr P needed the new mortgage to complete by 28 February 2025, around three weeks later, otherwise he would incur significant costs.

The appointed free legal's solicitor later noted that Mr P's property is self-built and that as that was the case, it was unable to deal with the matter. Halifax told Mr P's broker on 25 February 2025, and a new solicitor was appointed that day. Unfortunately, it seems that solicitor was unable to help so a further new solicitor was appointed the next day. The mortgage completed on 28 February 2025.

Because of the additional costs, distress and inconvenience Mr P said he had experienced, he complained. Halifax said that it was Mr P's broker's responsibility to check the product applied for was suitable. However, it accepted that its intermediary website wasn't clear that free legal's couldn't be used where the property was self-built. It also said this could have been picked up sooner by its processing team. It paid Mr P £50 compensation to recognise the distress and inconvenience caused. And it also offered to pay Mr P £1,000 towards the legal costs he has incurred.

Mr P referred his complaint to the Financial Ombudsman Service. Our Investigator said Halifax's offer to cover £1,000 of legal costs was fair based on the available evidence. But he recommended that Halifax should increase the compensation for distress and inconvenience by £250, to a total of £300.

Mr P didn't agree and asked for an Ombudsman to review his complaint. So it has been referred 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.

I was sorry to hear of the difficult circumstances Mr P faced and how this matter has impacted his health. I have carefully considered what's happened and I have to tell Mr P that I have reached the same overall conclusion as the Investigator. I'll explain why.

When Mr P's broker submitted his mortgage application, a 'free legal's' product was selected based on Mr P's choice. That type of product, offered by many lenders, covers basic legal costs for a remortgage application. However, Halifax does not offer a free legal's product for

properties that are self-built. As I understand it, this is because generally the legal work required for a self-build property is more complex and the work in relation to this isn't usually something that is covered under free legal services.

Halifax accepts that its intermediary website, available to the broker, was not clear about self-build properties being excluded from its free legal products. And it seems likely that had that information been clear, the correct type of product without free legal services would have been selected from the outset. Halifax also accepts that it could have picked up sooner that there was an issue and, looking at the available evidence, I agree. I consider it ought to have realised at the latest within days of the application being submitted that use of the free legal product wouldn't be possible. And if it had then it would have been able to confirm that to Mr P's broker.

Part of Mr P's argument is that if he had known he couldn't apply for a free legal product with Halifax, that he would have found other options elsewhere. He argues that he wouldn't have incurred legal costs at all. But, like the Investigator, I'm unable to agree with that. Having looked at intermediary guidance available online for other high street lenders I can see it isn't unusual that self-build properties are excluded from their free legal products. So, I am not persuaded Mr P would have been able to obtain a free legal product elsewhere. That means, therefore, that I consider it most likely he would always have needed to pay a solicitor to carry out the required legal work for his remortgage. So, I cannot fairly conclude that Halifax should cover all the legal costs Mr P has incurred.

Mr P has said he paid a premium of £2,500 to his solicitor because of the short notice – his required completion date was 48 hours away at the point he had to instruct a new solicitor. I do not think it's uncommon for conveyancing solicitors to charge more where a quicker than usual turnaround is needed. However, at the point Mr P submitted his mortgage application it only left three weeks before the intended completion date. And, on average, remortgage applications take longer than that to complete. So, I consider it's likely that Mr P would always have needed to pay an additional amount to a solicitor for the application to be fast-tracked, for the mortgage to complete by the date he required.

I can see the Investigator has asked Mr P to seek confirmation from his solicitor on how much he would have been charged, had he instructed them at the time of starting his mortgage application, instead of the free legal solicitor. However, no such evidence has been provided. I can only consider the evidence that is available to me when deciding on a case. Having done that, I don't consider I can fairly conclude that Halifax should reimburse Mr P for the full £2,500 premium. This is because, while I accept he had to pay more to the solicitor for a very short turnaround, it seems likely he would always have needed to pay something extra – albeit likely a lesser amount – to his solicitor to fast-track his case, even if they had been instructed in early February 2025.

Taking that into account then, my view is that Halifax should cover some of the legal costs Mr P has incurred. I can see it has paid him £1,000 and having considered the available evidence, I think this is a fair offer in all the circumstances. As this payment is to recognise a financial loss, Halifax should add 8% simple annual interest to recognise the loss of use of those funds, from the date Mr P paid his solicitor, to the date of settlement – if Mr P accepts my decision. I do not require Halifax to pay anything further to Mr P beyond that in relation to the legal costs.

I am persuaded Mr P suffered some avoidable distress and inconvenience due to having to change his solicitor with only days to go until he needed to complete. And I appreciate that must have been very stressful and worrying for Mr P, particularly because he would incur additional costs if the mortgage didn't complete by the date he needed it to. But I must also bear in mind that there is likely always a degree of inconvenience and worry during the

process of remortgaging, which would have involved making phone calls, for example, during work hours. I think that would have been spread out over weeks instead of days, being less concentrated, if the free legals issue did not happen. And that, in turn, might have lessened the impact on Mr P to a degree. But it would, as above, have most likely still led to Mr P experiencing unavoidable inconvenience, regardless of whether Halifax got something wrong.

The Investigator recommended that Halifax should pay Mr P a further £250, on top of the £50 it had already offered, to recognise the avoidable distress and inconvenience caused. Overall, while I appreciate Mr P feels it should be significantly more, I think that fairly recognises the impact of Halifax's actions.

I've considered the other financial losses Mr P has said he incurred because of what's happened. But I don't think I can fairly conclude that Halifax should reimburse him for those. The broker fee is something he would always have incurred, as he chose to use a broker to make his mortgage application. And, as I've explained above, I think it most likely that even if the issue with the free legals product hadn't happened, Mr P would have needed to spend some time and effort dealing with his application and the legal process. It might have been spread out over a longer period, but I can't safely conclude that Mr P wouldn't still have needed to take some time away from his job. So I can't fairly say that Halifax should reimburse him for lost earnings.

My final decision

My final decision is that Bank of Scotland plc trading as Halifax should, if Mr P accepts my decision, pay him the remaining compensation if it hasn't already done so. It should also calculate and pay 8% simple annual interest* on the legal costs refund of £1,000, from the date Mr P paid his solicitor, to the date of settlement.

*Halifax may deduct income tax from the 8% interest element of my award, but it should tell Mr P what it has deducted so he can reclaim the tax from HMRC if he's entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 January 2026.

Keith Barnes
Ombudsman