DRN-5990754

Financial Ombudsman Service

The complaint

Mr F complains that Bank of Scotland plc trading as Halifax has not administered his mortgage fairly.

What happened

In 2007, Mr F took out a mortgage with Halifax. It was in joint names with his now ex-wife.

Mr F complains:

- Halifax sent letters addressed to his ex-wife. He was not treated fairly when he asked the letters to stop. Halifax made him give details of his income and expenditure when he was not prepared and threatened legal action inappropriately.
- In September 2024, he was offered a new interest rate product despite being in arrears and without his ex-wife's agreement. He'd been asking for that years. It did not tell him that its policy had changed in April 2023.
- Halifax gave him conflicting information about whether the payment on the new rate included the arrears or not.
- Halifax unfairly recalculated and increased his monthly payments.
- Halifax spoke to him unprofessionally when he complained.

I issued a provisional decision setting out my reasons why I thought the complaint should be upheld in part. My provisional findings, which form part of this decision, were:

<u>*Correspondence to ex-wife*</u>

It is reasonable for Mr F to want his ex-wife's name to be removed when Halifax writes to him. He's explained they divorced many years ago and he's maintained the mortgage on his own. I can understand why it might cause Mr F some difficulty in his current relationship.

On the other hand, the mortgage is still in joint names. It might be that some paperwork has to include both names to reflect that. But even if that is the case, it is not clear why Halifax has to address the letters to both account holders rather than just Mr F.

Halifax should take steps to make sure it only addresses any correspondence to Mr F. If it is not able to do so it should explain why and provide evidence to support what it says.

If Halifax could have sent correspondence addressed solely to Mr F and it has not done so, then I consider it should pay Mr F compensation to reflect the avoidable upset that has caused him.

If Halifax is able to provide clear evidence to show that it was unable to amend the way the correspondence was addressed – and it has provided a reasonable explanation why it is *unable to do so supported by evidence, then I am unlikely to make any award for compensation. In those circumstances, it should take steps to make sure it addresses correspondence only to Mr F when it is able to do so.*

Interest rate product

Halifax said until 11 April 2023 it could not offer a new interest rate product where a mortgage was in arrears. It had changed its policy about requiring both account holders in 2021. Halifax said it offered a range of solutions to customers who are in arrears but it would need to speak to Mr F – but he did not contact it.

I'm not sure we have Halifax's full contact notes – we will need them going back six years. So I can't say if Mr F contacted Halifax after 11 April 2023 but before the letter informing him a new rate was available in September 2024.

What strikes me is that Halifax must have thought it necessary to tell Mr F that he qualified for a new rate in September 2024 even though his circumstances were largely the same as they were in April 2023 when the policy changed. If, as it said, it was Mr F's responsibility to contact it then I do not understand why it wrote to him offering the new rate in September 2024?

The consumer duty came into force in July 2023. That included duties for firms to make sure their customers avoid foreseeable harm and to enable them to achieve their financial objectives. It also required Halifax to provide information to equip its customers to make decisions that are effective, timely and properly informed.

Taking that all into account, I do not consider it was reasonable for Halifax not to tell Mr F that he could take a new product sooner than it did – and at least on or soon after 31 July 2023. So I do not consider it treated Mr F fairly in respect of the information it gave him about his ability to obtain a new rate.

Payment on the new rate

Halifax said when it gave Mr F information about the new fixed rate on 23 September 2024, the monthly payment it quoted included the full mortgage balance, including the arrears. Halifax said that if Mr F went ahead with the product transfer the new payment would have been worked out on the mortgage balance excluding the arrears. Mr F would then have needed to come to a separate arrangement to repay the arrears.

I can see how a consumer might find that confusing. And Halifax has not explained why it operates such a policy. In any event, when it was interacting with Mr F on a one-to-one basis it was required to tailor the information to meet his information needs, including any characteristics of vulnerability – and ask him whether he understood the information, particularly if the information could reasonably be regarded as key information.

The amount of the new payment was clearly key information. That was the most relevant factor for Mr F – he wanted to reduce his payments. I do not see how a consumer could possibly make an informed choice whether to take a new rate unless they knew what the actual payment would be.

Surprisingly we have not been given a recording of the conversation in question. But looking at what Mr F has told us I am satisfied that when the call ended he did not understand the position as Halifax has now set out. Therefore, Halifax did not take sufficient steps to set out the correct position or to check Mr F's understanding. So I do not think it treated him fairly in respect of the discussion around the new interest rate.

Changes to payments

Halifax said Mr F's monthly payment changed because it carries out an annual recalculation or where the Bank of England base rate changed. I am satisfied that the terms and conditions allowed Halifax to carry out a recalculation.

Mr F was on Halifax's standard variable rate (SVR). The terms and conditions set out it can be changed for a number of reasons, but as far as I can see a change in the Bank of England base rate is not a specified reason for changing the SVR. It might be covered by another reason. It might be that Halifax's response is unclear in respect of the reason for the change as there does not appear to be any direct link between the SVR and the Bank of England base rate. But it should clarify its position, with evidence, in response to this provisional decision.

Halifax said when it recalculated the payment using the mortgage balance. It is not clear if that includes the mortgage arrears or not. The December 2024 letter would appear to suggest that it does not. But Halifax should clarify if it does or not. If it does then it should explain why that is consistent with the relevant rules, in particular MCOB 13.3.4AR (d) and 13.3.4AAR. Halifax should explain. If it has automatically capitalised the arrears it should explain why it considers that is fair and in line with the relevant rules.

Halifax said the reason Mr F's payments went up even though the Bank of England base rate (although I assume it meant SVR) went down, was because of the timing of the change and recalculation. It said that the payment was recalculated before Mr F's monthly payment was collected. Effectively it was calculated on an artificially high balance.

I don't think that was fair. There was a clear risk of foreseeable harm to borrowers whose payments were made after the recalculation – particularly in Mr F's case where he was already experiencing financial difficulty.

I understand Halifax recalculated Mr F's payment in December 2024. But I understand there have been similar changes after that.

It is not clear that Mr F suffered any financial loss as a result of payments being higher than they should have been. But I think it has caused him unnecessary distress and inconvenience.

December 2024 update

In December 2024, Halifax wrote to Mr F. It said that it didn't work out the value of the missed payments correctly and therefore the arrears balance was more than it should have been and the amount it collected was too low. As a result, Mr F's mortgage balance was higher than it should be.

Halifax adjusted Mr F's mortgage by the amount of the shortfall and any additional interest and updated the arrears balance. That is in line with the steps I would have expected it to take.

What is not clear, however, is why those changes would mean that Mr F's monthly payment would go up by as much as it did or why that was fair in the individual circumstances here. I am satisfied that its letter says the calculation did not include the arrears balance. But, again, Halifax should explain why and provide evidence to support what it says.

Of course, Mr F was already worried that he wasn't being treated fairly. Understandably this has added to his upset.

Putting things right

I would draw Halifax's attention to my comments above. I have asked for clarification along with evidence on a number of points. That information might not be necessary in respect of the changes to payments and December 2024 update if Halifax agrees with my proposed outcome here. That is because the changes will effectively be removed from Mr F's mortgage. But if it does not agree then I will need all of the information.

I consider Halifax should have told Mr F that he qualified for a new interest rate product on or soon after 31 July 2023. If it had done so I am satisfied that Mr F would have taken steps to set up a new rate. I say that because that is what he did when he received the September 2024 letter.

Of course, Mr F did not proceed with the product transfer when he spoke to Halifax. But I consider that was because there was avoidable confusion about what the new payments would have been. It seems likely if the correct information would have reduced Mr F's payments that he would have taken the new rate.

Therefore, I consider that Halifax should re-work Mr F's mortgage as if it gave him the fixed rate he would have qualified for on or around 31 July 2023. It should give us full details of the rate, including the duration. If it was a one or two year rate, then Halifax will also need to give us details of the rates that Mr F would have qualified for once those rates ended – and it should re-work the mortgage as if Mr F took those rates. If Mr F has overpaid, then the overpayments can be used to reduce the arrears. Although I would ask that Halifax provides calculations to show what will happen when the account is re-worked.

Halifax has already offered Mr F a total of £190 for poor service and being unnecessarily heavy handed when he spoke to it. I understand Halifax sent Mr F cheques, but these have not been cashed. I have set out there have been other times when Halifax has not treated Mr F fairly. He's explained his vulnerable circumstances including his financial difficulty. In view of everything he's told us about the impact of this matter on him and the length of time this matter has been going on for, I consider Halifax should pay Mr F a total of £400, including the £190 already offered/paid.

I will increase that to £500 if Halifax is unable to provide evidence that it could not change the correspondence to Mr F's sole name or if it has not changed correspondence where it could have done so.

Mr F responded to say that for the last six years Halifax had incorrectly reported that he'd not made any payments to his mortgage. He said that has caused him further distress as he'd been unable to change phone or utility companies because of his low credit score.

Halifax said that it accepted my provisional decision. It explained that its systems automatically populated the names of all account holders on any automated letters it sent and it is not able to amend letters on an ad hoc basis.

Halifax said the lowest interest rate available on 31 July 2023 was 6.19% fixed until 31 October 2025. The lowest rate available from 1 November 2025 was 4.49% fixed until 31 December 2027 when the mortgage term ends. An early repayment charge would apply if the mortgage is repaid before then. Halifax said that backdating those products would result in an interest credit of £1,717.15 and would reduce the arrears balance from £3,053.02 to £1,626.37. It said it would also update Mr F's credit file to reflect the backdated rate.

Halifax said it did not accept that its calculation method and the information it gave about it creates unfair outcomes. But it acknowledged that for some customers a different approach might be preferable. And intends to update its system. It said Mr F could request his account to be manually reviewed each month – but that would not be necessary when he was on a fixed rate.

Halifax explained what happened in the December 2024 update. It said that there was a small credit to the mortgage that reduced the total mortgage balance. But it also changed the proportion of the total mortgage balance that was made up of arrears from £5,618.06 to £2,605.96. It confirmed when it calculates the payments it does not include the arrears balance. But because the arrears balance went down, the portion of the total mortgage balance on which the payments were calculated went up – hence the increase In payments.

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.

Correspondence to ex-wife

I am satisfied with the explanation given by Halifax. When it sends an automated letter it automatically includes the name of all account holders. So I don't think it acted unreasonably when some correspondence included his ex-wife's name. That reflected the fact she remains jointly on the mortgage.

Halifax should make sure that when it sends a letter that is not sent out automatically it uses Mr F's name only.

Interest rate product

Halifax has agreed to backdate the interest rate to July 2023 and to update Mr F's credit file accordingly.

Payment on the new rate

I see no reason to reach a different outcome than I reached in my provisional decision.

Changes to payments following rate changes

Halifax has agreed to backdate a switch to a fixed rate so this issue will no longer apply to Mr F.

December 2024 update

I think Halifax's explanation of why Mr F's payment went up makes sense. It had identified that it had wrongly classified some of the balance as arrears. So – apart from a small reduction – the amount Mr F owed in total did not change. But because the part of the balance that was arrears was lower, the remaining balance was higher and that resulted in his payment going up.

Putting things right

I thank Halifax for its explanation and clarification in its response to my provisional decision. I still considerate has caused Mr F avoidable distress and inconvenience in the way it has dealt with this matter. But I consider £400 is a fair amount to reflect that in all the circumstances. I have not made any award for Halifax addressing correspondence to Mr F's ex-wife for the reasons set out above.

Halifax has agreed to my proposed compensation.

I note the points that Mr F made in response to my provisional decision about his credit file. Halifax has told us that it has reported information correctly. It explains that where the total amount in arrears is equal to one contractual monthly payment it records that as a “1”, when the arrears are equal to two contractual monthly payments it records that as a “2” and so on until “6”, which means the arrears are equal to or more than six contractual monthly payments. Halifax said it has not recorded missed payments but rather the level of arrears.

I’m not sure if that explanation helps Mr F – and the number of months in arrears might change if he accepts this decision. But the complaint about his credit file did not form part of this complaint and it is too late for me to consider it here. If Mr F does want to pursue that complaint he would need to contact Halifax directly and make a new complaint.

My final decision

My final decision is that Bank of Scotland plc trading as Halifax should:

- Apply the lowest fixed interest rate that Mr F would have qualified for had he applied on 31 July 2023 and re-work Mr F’s mortgage accordingly. Any overpayments should go towards the arrears balance – and amend Mr F’s credit file accordingly

- If the new interest rate product would have ended before this complaint was resolved, Halifax should provide details of the interest rate(s) that Mr F would have qualified at the end of that rate, apply the lowest interest rate and re-work his mortgage accordingly. Any overpayments should be paid to the arrears balance.

- Pay Mr F directly £400.

- Address any correspondence to Mr F solely when it is able to do so.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr F to accept or reject my decision before 5 January 2026

Ken Rose
Ombudsman