

## **complaint**

Mr and Mrs L complain that Bank of Scotland Plc trading as Halifax ("Halifax") are treating them unfairly and unreasonably as it has refused to send a notice of discharge of their mortgage to the Scottish Land Registry, even though it would if their property was in England. Mr and Mrs L want matters put right.

## **background**

Mr and Mrs L had a mortgage with Halifax, which was paid in full. It sent them their title deeds but said Mr and Mrs L had to sort out removing the mortgage from their property registration at the Land Registry. Mr and Mrs L believed that if their property was in England, Halifax would automatically remove the charge from their property, so felt they were being treated unfairly and unreasonably. They also said Halifax had told them they'd need to instruct a solicitor to remove the charge, but the Scottish Land Registry had said Halifax could deal with it if Mr and Mrs L consented.

Mr and Mrs L complained to Halifax. It said its process for Scottish properties was that a solicitor had to be involved in removing the charge. Halifax accepted the situation was different for English properties, but it was going to follow its own process.

Mr and Mrs L complained to us. The investigator's view was that it was possible to discharge a mortgage held at the Scottish Land Registry but a solicitor was involved in the process, unlike in England and Wales. She was satisfied that Halifax wasn't acting unfairly or unreasonably.

Mr and Mrs L disagreed. They said that they'd been told anyone could remove a charge from the Scottish Land Registry and it wasn't fair Halifax hadn't signed up to do so electronically.

## **my findings**

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

I am conscious that the legal systems in Scotland are completely different to those in England. Despite the similarities in name, the Land Registry and the Scottish Land Registry are separate and different activities are required to deal with properties held by each registry.

I agree that in England it's fairly normal for the lender to notify the Land Registry electronically that the mortgage has been paid and to release its charge. But in Scotland, the industry practice is different as the Scottish Land Registry operates differently - a discharge document has to be drawn up by a solicitor, manually stamped and signed by the lender and then returned to the solicitor. It is possible for the process to be done electronically in Scotland, but this depends on the arrangements in place between the solicitors and the Scottish Land Registry, not the lender and the registry as in England. I note Halifax isn't one of the lenders able to access the electronic service direct.

While I appreciate why Mr and Mrs L feel frustrated, Halifax isn't acting unfairly or unreasonably in my view by refusing to discharge the mortgage itself and by telling them to get a solicitor to help. It also isn't unfair or unreasonable for Halifax to decide not to offer Scottish consumers a service to remove such charges as it's a specialist legal process. Legal documents are generally best drawn up by qualified lawyers. Mistakes made by non-lawyers dealing with such matters are common, and it isn't unfair or unreasonable for Halifax to only be willing to deal with discharge documents prepared by solicitors.

**my final decision**

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs L to accept or reject my decision before 25 October 2018.

Claire Sharp  
**ombudsman**