

complaint

Mr L complains that Bank of Scotland plc (trading as Halifax) won't help him with his mortgage arrears. He has an unstable income but it won't come to any payment arrangements with him.

For ease I'll refer to Halifax throughout this decision.

background

Mr L took out a mortgage through Halifax in 2004. He started struggling with payments in 2006 due to his personal circumstances. Over the years Mr L has had various repayment arrangements with Halifax to clear the arrears. However, not all of these have been kept to with very few payments made recently. Mr L is currently in about 40 months of arrears on his mortgage repayments.

Mr L is unhappy as he's receiving arrears correspondence and doesn't feel the bank is doing enough to help him, particularly he doesn't feel the current mortgage repayments are affordable but he would be able to afford something lower. Halifax didn't uphold his complaint as it had agreed to a number of repayments arrangements which weren't kept to. It also said the latest income and expenditure assessment showed the mortgage was affordable but asked Mr L to get in touch if the information in that form was wrong.

Not happy with that Mr L brought the matter to this office. One of our investigators looked into the complaint and concluded Halifax had already treated Mr L fairly and reasonably, particularly in relation to his arrears. He was satisfied Halifax had fully taken account of Mr L's personal situation and had agreed to a number of payment arrangements and changed the mortgage to interest only for a period of time. Our investigator explained it was not for us to ask a lender to arrange a new mortgage and urged Mr L to get in touch with Halifax's collections department.

Mr L has asked for the matter to be reviewed. He's explained his personal situation and his belief that Halifax should rearrange his mortgage to something more affordable.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I don't uphold this complaint. I explain why below.

I can see Mr L has had a very difficult time over the last few years which has resulted in his current financial situation. I understand things are now improving although he's still having difficulties in affording his mortgage repayments. In such situations we would expect a lender to treat its customer with forbearance and due consideration. And having considered Halifax's treatment of Mr L's arrears I'm satisfied it has done so.

Mr L has been in arrears with his mortgage for some years now. And I can see from the records that it agreed repayment arrangements with him as early as 2006. From 2009 Mr L's account has been with Halifax's collections department, and I can see that several arrangements have been agreed during that time. But not all of these arrangements were kept to. I consider agreeing to repayments arrangement to be a fair way for trying to help a customer who is in financial difficulties.

I can also see Halifax changed the basis of Mr L's mortgage to interest only for a period of time. This was a positive step for Halifax to take as it meant the contractual monthly repayment amount would be lower, allowing a bit of breathing space. Halifax has also referred Mr L to debt advice charities and asked him to ensure he is receiving all the benefits he is entitled to. Halifax did add arrears charges to Mr L's account. These charges were something that Halifax could apply, given the arrears and the payments that were being made. But it has now refunded these as a gesture of goodwill. I consider all of these steps to be positive in trying to help Mr L.

But sometimes it's simply the case that a mortgage is no longer affordable. Halifax has considered extending the term but due to the amount of arrears, this option isn't affordable for Mr L. And although I can understand why Mr L would think a repayment arrangement would help, given the amount of arrears, this would only increase the balance outstanding. And the agreement made as recently as summer 2017 wasn't kept to. And give Mr L's comments about not being able to afford his current contractual repayment, it's not clear any new arrangement would be affordable.

I do understand Mr L's desire for Halifax to simply rearrange the mortgage. But that's not something I can require it to do; whether a lender wishes to change the basis on which it is willing to lend is a legitimate matter for it and not something I'd generally interfere with. And given the mortgage outstanding and the current level of arrears it isn't clear this option would be affordable in any event.

I know Mr L is particularly unhappy that Halifax has started possession proceedings twice and he doesn't understand why they were stopped. I can understand why Mr L is feeling distressed about that. But as the investigator explained repossession is a last resort, and it's clear Mr L wants to stay in his property. I'm not persuaded Halifax starting possession proceedings that it was entitled to take is unfair, nor is its decision to hold off those proceedings.

Overall, I'm satisfied Halifax has treated Mr L with forbearance and due consideration. I would urge Mr L to get in contact with Halifax's collections department to discuss next steps about his mortgage and the arrears.

my final decision

For the reasons given above, I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 15 June 2018.

Claire Hopkins
ombudsman