

complaint

Mr S complains about the failure of Bank of Scotland plc trading as Halifax to provide information to him about the repossession of his property in 2010. Mr S wants Halifax to provide it.

background

Mr S bought a property in 2006 for £285,000. It was repossessed and sold in November 2010 for £144,000 and the property was resold later for £160,000. This left a substantial shortfall. Although Halifax sold the property in 2010 Mr S says that the first contact he had from Halifax was in May 2018 when debt recovery agents contacted him. Mr S says that because of the passage of time that it's unfair for Halifax to pursue the debt. Our adjudicator's view was that Halifax had made reasonable efforts to contact Mr S after it sold the property and didn't think that it was unfair of Halifax to try to collect the debt that Mr S owed. Mr S disagreed and asked for a review.

my findings

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

There seem to be several issues related to this complaint. I note that Mr S's representatives say that they have no issue with the price achieved on sale. But Mr S may have issues surrounding the loan that he originally got in 2006 and the loan to value ratio. But that issue isn't part of this complaint as it wasn't put to Halifax in the original complaint and it has not had an opportunity to respond to that issue.

This complaint relates to whether it's fair for Halifax to ask for its debt to be repaid more than six years after it became due following the sale of the property. Mr S has referred me to a number of regulations to support his complaint. In particular the regulations require Halifax to send Mr S information about the mortgage shortfall as soon as possible after the property was sold.

According to Halifax it passed the debt to a firm of solicitors in 2010 after the property was sold. That firm tried to contact Mr S to inform him about the debt and to see what his proposals about repayment were. Halifax says that the solicitors attempted to trace Mr S on four occasions but did not have a forwarding address as Mr S didn't supply this to Halifax. It then seems that the matter was passed to another firm of solicitors who made attempts to contact Mr S in 2013 and in 2017. That firm was also unable to trace Mr S. Halifax then passed the file to a debt recovery agency in 2018 and Mr S has responded to their attempts to contact him.

So, whilst Halifax should provide information about the house sale as soon as possible after it happened, it can only do so if it were able to contact Mr S. Mr S hasn't made the point that he provided Halifax with details of his new address. So in those circumstances I can't fairly find Halifax at fault if it was unable to contact Mr S until recently. As time has passed I understand that some of the information that Mr S and his advisers requested may no longer be available. Although this information is not presented to Mr S in the way it would have been in 2010 I'm of the view that there is still a debt due. It were better for all concerned if

this had been dealt with earlier but if Halifax didn't have a forwarding address for Mr S I can't say that Halifax was at fault for the lack of contact. On that basis I can't fairly uphold this complaint.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 January 2020.

Gerard McManus
ombudsman