

complaint

Ms B complains about the service she received from Bank of Scotland plc trading as Halifax whilst she has been in arrears on the mortgage she has with it.

background

Ms B has a mortgage with Halifax which is in joint names with her ex-partner Mr A. They separated several years ago and he no longer contributes to the mortgage repayments.

Due to financial difficulties Ms B hasn't been able to maintain her monthly mortgage repayments and the mortgage has fallen into arrears.

In 2015 Ms B complained to Halifax saying:

- It was harassing her with too many telephone calls and letters about the mortgage arrears, despite telling her it would stop.
- It hadn't dealt with her very well in reaching arrangements to repay the arrears.
- It kept asking to speak to her ex-husband despite being told that he no longer lived with her.

Halifax said:

- It had agreed to stop calling her whilst she sent in details of her income and expenditure. Because it had made further calls it offered £100 compensation.
- If Ms B kept in contact with its collections department there would be no need for it to send as many letters or make as many calls to Ms B as it did.
- It had to send some letters and make some calls because Ms B hadn't maintained agreed repayment arrangements.
- Mr A is still named on the mortgage and is therefore financially responsible for the debt. It has noted that he doesn't live with Ms B but occasionally the bank's staff may ask to speak to him.

Ms B referred her complaint to this service. She said Halifax was continuing to add unfair charges to her mortgage and had forced her into an unaffordable repayment arrangement.

Our adjudicator didn't uphold Ms B's complaint. She said looking at what Halifax had done generally, it hadn't done anything wrong. She said the £100 it had offered her for not stopping the telephone calls when it said it would, was fair.

Ms B didn't agree. She asked that her complaint be reviewed by an ombudsman.

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 think this complaint should be upheld. I'll explain why.

My starting point is that Ms B hasn't been able to make the mortgage repayments she agreed to when Halifax gave her the mortgage. Ms B's circumstances are such that she has found herself in this position because of financial difficulty through no fault of her own, or Halifax's. That said, it's entirely reasonable that Halifax asks Ms B to pay it the money she owes.

However, there are certain obligations on lenders to deal fairly with customers who are in mortgage arrears. To demonstrate such fair treatment we would expect lenders to:

- Make reasonable efforts to reach an agreement with the borrower regarding clearance of arrears.
- Only to contact borrowers at reasonable hours.
- Allow borrowers a reasonable amount of time to catch up on missed payments.
- Ensure that any proposed repayment plan is achievable by the borrower.
- Provide regular written statements showing the arrears outstanding.
- Ensure that any arrears charges are transparent, reasonable and fairly applied.
- Only to seek repossession of a borrowers' property as a last resort.

I've looked at what Halifax has done to try and help Ms B with her arrears. I'm mindful that it hasn't considered legal action and has instead sought to make repayment arrangements with her. In doing so Halifax has contacted Ms B either by telephone or by letter. Whilst I appreciate that Ms B may find such contact upsetting it's something we would expect Halifax to do. This is to ensure that it was kept up to date with Ms B's financial circumstances and that she wasn't being asked to make unaffordable repayments. I also consider it reasonable that there should be some expectation on Ms B to have contacted Halifax regularly and to engage with it about her arrears. To leave it to Halifax to initiate contact inevitably meant it would make more frequent calls and write more letters to her.

It's also reasonable to have expected Halifax to have contacted Ms B on occasions where there was no repayment arrangement in place or where she didn't make the monthly repayments she'd arranged with it. Looking at her account history I don't see that Halifax has contacted her inappropriately. Nor have I seen anything that would lead me to conclude that Ms B had been forced to make unaffordable repayments.

I note that on one occasion Halifax did continue to call Ms B after it told her it wouldn't whilst she sent it details of her income and expenditure. But Halifax has offered Ms B £100 compensation for this error. I wouldn't have told it to pay her more than this so I'm not going to ask it to do anything else.

I've considered what Ms B said about Halifax asking to speak to her ex-husband after she'd told it that he no longer lived with her. Ms B says that Halifax hasn't taken account of a court order that awarded her the mortgaged property. However, the court award is a completely separate matter to the mortgage. The court order doesn't oblige Halifax to remove Ms B's ex-husband from the mortgage. Halifax may choose to do so but it may decide that this increases the risk that it's exposed to. Such a decision isn't something this service would normally involve itself in.

All things considered, I don't think Halifax did anything wrong when it asked to speak to Mr A on the telephone. The mortgage is as much his as it is Ms B's, irrespective of the court order. I appreciate that it must be frustrating to have to explain each time that Mr A no longer lives at the property. But I consider that if Ms B had kept in regular contact with Halifax about her arrears as she should, then this issue as a cause for complaint would be substantially diminished. Similarly, provided Ms B keeps to her currently agreed repayment arrangements in the future or contacts Halifax if she finds herself no longer to be able to afford to, this issue should no longer arise.

I've noted Ms B's comments that many of the calls she received were from foreign call centres. I don't consider that this had a material effect Ms B's treatment. Where Halifax decides to base its staff is a commercial decision for it to make.

I've looked at the arrears fees Ms B says Halifax has added to her account. But from what I've seen, where Halifax has added such fees to her mortgage account, it's subsequently decided to remove them.

my final decision

My final decision is that I don't uphold this complaint because Bank of Scotland plc trading as Halifax has dealt with it fairly. I leave it to Ms B to decide whether she wishes to accept Halifax's offer of £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 5 February 2016.

James Hargett
ombudsman