

The complaint

Mr K and Mrs R complain about how Bank of Scotland plc trading as Halifax has dealt with them in their financial difficulties.

What happened

Mr K and Mrs R have a mortgage with Halifax. The account is in arrears. Mr K and Mrs R brought a complaint against Halifax which was dealt with by this service in early 2022. Our investigator recommended that the complaint should be upheld, and that Halifax re-visit the forbearance options available to it to assist Mr K and Mrs R and work with them to come to a suitable arrangement to clear the arrears including capitalisation of the arrears.

Mr K and Mrs R say that Halifax isn't working with them. They would like to pay an affordable amount of £1,800.00 per month but not the contractual monthly payment ("CMP"). The arrears are over £40,000.00. Mr K and Mrs R would like to go onto an interest-only mortgage. Halifax says if this is short term, it would increase the amount of the outstanding balance thus increasing the CMP without any realistic hope that an increased CMP can be paid.

Our investigator didn't recommend that this complaint should be upheld as Halifax had shown a willingness to explore all forbearance options with Mr K and Mrs R. Mr K and Mrs R say that it's Halifax's fault that their arrears are high because of the interest rate they are on. They intend to sell the property, as there is a lot of equity in it, and want a package that is affordable to carry them through until then.

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.

This complaint arises out of an earlier complaint dealt with by one of our investigators in April 2022. Mr K and Mrs R complaint was that Halifax hadn't dealt with them fairly in their financial difficulties by not exploring the range of forbearance options available to them including capitalisation of the arrears and a switch to interest-only. Our investigator upheld the complaint and recommended a payment of £500 to Mr K and Mrs R for their distress and inconvenience. Both parties accepted the recommendation which meant that this complaint was settled on the basis that forbearance options would be explored. I note that in her view that investigator noted in December 2021 that the arrears balance was about £23,000.

This complaint arises because Mr K and Mrs R complain that Halifax didn't work with them to see if these forbearance options were suitable. My role here is not to deal with matters before April 2022 when our investigator issued her opinion but the parties actions after that date. That means that my decision does not concern any disputes the parties may have had before April 2022, although I've reviewed the file to inform myself of the background to this dispute.

I note that the arrears/collection notes go back to 2012. This is not an account that has run

smoothly as there appears to be regular contact throughout that time as sometimes payments were not being made as they fell due. I see that in 2014 there is a note that the issue is with getting paid in the catering business,, arrears were on the account and the account seems to have been regularly in arrears. I note that on several occasions Mr K and Mrs R have been paying on a daily basis towards the arrears as they took in income. The account seems to have stabilised but in 2019 Mr K and Mrs R reported that an employee had stolen from them. The account has not been managed well since then and later as the business was affected by the Coronavirus Pandemic. This has meant that the arrears have increased substantially.

Our investigator, in his view has set out a history of the interactions between Halifax and Mr K and Mrs R since the previous complaint which are well known to both parties and which I will summarise briefly. In the summer of 2022, after an income/expenditure assessment, Halifax couldn't come to a payment arrangement. The monthly payment required to pay the balance off by the end of term was £2,810.13 but the available income was only £980.89. Halifax looked for a further review of the I/E in October 2022 as Mr K and Mrs R were paying a higher amount towards their mortgage of £1,700.00 but Mr K and Mrs R weren't available to do an assessment until the end of February 2023 when their surplus income had dropped to £237.32. In August Mr K and Mrs R did an assessment which showed a surplus income of £3,662.17 but said they could only afford to pay £1,800.00 per month. Then in September with a similar I/E they said they could now afford £2,500 per month. In September 2023, Halifax said that it put the mortgage on hold from September 2023 to February 2024 to give them time for their financial situation to improve. Since then, I understand that Mr K and Mrs R have taken out a five-year fixed rate mortgage product and the term has been extended.

Mr K and Mrs R have a capital repayment mortgage but since the theft and then the pandemic and the general increase in interest rates have not been able to afford it. I noted that they wanted to move to an interest-only mortgage for a period of time and then sell the property and move to the flat above their business. If I look at notes in December 2021, Mrs R said that they intended to sell the property in three and a half years when her daughter started university and in August 2022 she says they intend selling it in 2/3 years time. In September 2022 I see that Mrs R queries why Halifax couldn't offer her an interest-only mortgage as she intended selling the property in two years time – 2024. In a call in October 2022, Mrs R mentions that she wants the mortgage to go on interest-only for two years when they will sell the property. I note in a call in February 2023 that Mrs R talks about selling the property in two years time - presumably 2025 - when both children have gone to university. In September 2023 Mrs R talks about selling the property in a year's time after her daughter has gone to university.

But then I see that in a conversation with Halifax in February 2024 that Mrs R talked about her son going to university in two years time which is 2026. But also, in that call Mrs R tells Halifax says that their intentions were now to live above her business and to let out, but not sell, this residential property. I did ask Mrs R for more information about their intentions in regard to the sale of the property over a month ago but to date I've received no reply. But from reading the file its not clear to me that Mr K and Mrs R have definitively decided if and when they intend to sell the property. Part of Mr K and Mrs R's complaint is that Halifax wouldn't facilitate them by allowing them to go on interest-only pending sale. I recognise that lenders should consider short term options such as interest-only to customers in financial difficulties. But if the sale is so uncertain and in the future it's no longer a short term solution and I can understand why Halifax would not offer this option to Mr K and Mrs R.

It's clear to me that there has been lot of engagement with Mr K and Mrs R during this period from 2022 and Halifax has shown that it is flexible in its approach and in assisting them. Mr K and Mrs R are obviously doing what they can to make payments towards the mortgage but their ability to do is affected by the irregular income from their business. I see that in

September 2023, Halifax put a hold on the account for six months as a sort of breathing space. The notes say to allow Mrs K to “*get her finances on a better path*”. Mrs K notes it was agreed that she pay what she can during that period.

Then in March 2024, Halifax said that it would discuss a product transfer to a fixed rate to see if it would reduce the CMP. I also note that when Mr K and Mrs R were given the fixed rate quote, that they were also given the option of going back to the variable rate within 28 days. I also note that although Mr K and Mrs R wanted the fixed rate, the following month they had difficulties paying it. Whereas they said they could afford £1,850 per month, the CMP with the fixed rate was in excess of £3,000.00. I note that at that stage a hold was put on the account for three months to look at options. From the notes I see that in June an extension to the term was agreed for a further four years and eleven months to make the payments within Mr K and Mrs R’s budgets. The final notes I see on the file are positive with Mrs R being reasonably optimistic about the prospects for her business.

My role here is to decide whether Halifax acted fairly and reasonably in how it treated Mr K and Mrs R in their financial difficulties after April 2022. It’s clearly not easy for customers with irregular income streams meeting loan repayments that are required to be the same every month and Mr K and Mrs R suffered a severe blow to their finances a few years ago. The notes on this file are detailed and indicative of the levels of engagement between Mrs R and Halifax. Although Halifax may not have gone down some routes that Mr K and Mrs R wanted them to go down such as a transfer to interest-only pending sale of the property, it’s not clear to me that Mr K and Mrs R are still keen on that or indeed when the sale would be.

Halifax has offered and Mr K and Mrs R have taken advantage of an extended period of the mortgage being “on hold” to allow initially a breathing space for the business to improve, and later time to consider options. Mr K and Mrs R were able to choose a fixed rate and extend the mortgage term to make the mortgage more affordable. I considered whether these solutions might have been offered earlier. But a five year mortgage and an extended term doesn’t appear to be suited to a customer intending to sell a property within a couple of years so I can understand why it wasn’t offered earlier.

So, I’ve had a detailed look at this file, and I can’t find Halifax at fault for treating Mr K and Mrs R unfairly during their financial difficulties in the period covered since April 2022, but it has shown the level of flexibility we would expect in trying to find solutions for them. The earlier complaint was settled on the basis that Halifax would explore forbearance options with Mr K and Mrs R and it seems to have done so, I did ask Mr K and Mrs R for some further information which to date hasn’t been supplied but I have been able to reach my decision without that information. I note that Mr K and Mrs R refer to the high interest rate they have had to pay but I’ve seen nothing to suggest that they were asked to pay other than the contractual rate of interest which of course has been high over recent years. But for the reasons set out above 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 K and Mrs R to accept or reject my decision before 12 September 2024.

Gerard McManus
Ombudsman