

The complaint

Mr B complains that he was given incorrect and unclear information by Bank of Scotland plc (trading as Halifax) about a fixed interest rate product.

Mr B says he was not given clear information about the deadline to withdraw from the product without paying an early repayment charge (ERC). And he was given incorrect information about porting the product.

Mr B paid an ERC of about £13,000 when he sold his property, and says he had to withdraw from his property purchase. He asks for a refund of about £11,000 (the cost of the ERC less the interest saved while on the fixed interest rate product).

What happened

Mr B had a mortgage with Halifax. His fixed interest rate product was due to expire on 31 October 2023. Mr B wanted to sell the property. He thought it might take a long time to sell the property or it might not sell at all. He was concerned about the higher cost of his mortgage if it was on the standard variable rate (SVR) after his fixed interest rate product expired.

In May 2023 Mr B applied for a fixed interest rate product to take effect in November 2023.

Mr B spoke to Halifax in July 2023 to ask about his options. Halifax told Mr B it didn't recommend taking out a new fixed interest rate product while he was selling the property. Mr B says this is irrelevant to his complaint as the other options it offered were not acceptable to him. Mr B says taking out another fixed rate product was his only solution.

Mr B accepted the new fixed interest rate product in early August 2023. He says he thought the 28-day withdrawal period started from completion (on 1 November 2023). Therefore, he'd be able to cancel up to 28 November 2023.

In mid-November 2023 Mr B accepted an offer to buy his property. He spoke to Halifax. Halifax said he couldn't cancel the fixed interest rate product without paying an ERC. It discussed the time limits for porting the mortgage product. The property sale completed in January 2024 and Mr B paid the ERC.

In mid-February 2024 Mr B made an offer to buy a property. His broker obtained an agreement in principle and contacted Halifax about porting. Halifax told the broker it would refund the ERC if Mr B took out a new mortgage with it, but wouldn't port the interest rate. The time limits for the application were also different from the information Halifax had given to Mr B. This was because the application was made via a broker. Mr B said he couldn't continue with the higher interest rates on offer and withdrew from his purchase.

Mr B complains that:

- Halifax didn't allow him to withdraw from the fixed rate product in November 2023 without paying an ERC.

- Halifax didn't allow him to port the product within six months of his property sale, as he'd been told was the policy. It didn't tell him it would apply a different process due to him applying via a broker.

Mr B says this had serious financial and emotional consequences. He says Halifax's response to his complaint was unhelpful, defensive and a simple reiteration of its policy.

Our investigator said Halifax had made it clear that Mr B couldn't withdraw once the product took effect on 1 November 2023. She said this was set out in the mortgage offers sent in May 2023 and August 2023.

Our investigator said Halifax hadn't given Mr B clear information about porting in November 2023. It told him he had six months to port from the date he redeemed the mortgage. It didn't tell him that he needed to start his application within three months. It didn't tell him there was a different process if he applied to Halifax directly, and not via a broker. However, Mr B was given this information in February 2024. Our investigator said Mr B could have made a porting application directly with Halifax in February 2024 and chose not to do so.

Our investigator didn't agree that Halifax's error had caused Mr B financial loss. She said Halifax should pay £200 for the upset caused. Halifax agreed. Mr B didn't agree. So the complaint has been passed to me, an ombudsman, to issue a final decision.

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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

When he raised a complaint Mr B told Halifax he has dyslexia. He said he sometimes struggles with written information and finds information provided during calls easier. I don't think Halifax was aware of this when the events complained about took place. However, I have kept this in mind when considering if the information Halifax provided was clear.

Halifax sent mortgage illustrations to Mr B in May 2023 and August 2023. These set out the ERC and when it applied. It seems there's no dispute that Mr B was aware of the ERC when he accepted the product terms. Mr B chose the products on a non-advised basis.

The mortgage illustrations said "You will not have the right to withdraw from the mortgage once it has started." In addition, the offer letter sent to Mr B in August 2023 set out when the product would take effect and when Mr B would – and wouldn't – be able to withdraw. This was set out clearly under the heading "Your right to withdraw". This said:

"You do not have the right to withdraw once this transaction has completed. However, you have the right to repay the mortgage subject to paying any early repayment charges..."

I think this made it clear that Mr B could cancel the product up until it took effect on 1 November 2023, and not after that. I think the information Halifax provided to Mr B about this was clear and consistent.

Mr B repaid the mortgage during the product term. Halifax applied the ERC, as it was entitled to do under the mortgage terms and conditions.

Mr B says Halifax treated him unfairly and should refund part of the ERC or agree to port the product. I don't think it's fair and reasonable to require Halifax to do this.

Mr B accepted the product on the terms set out in the mortgage offer. I don't think Halifax misled him about the ERC, whether the product could be ported or when he'd be able to cancel the product. The terms were set out in the documents sent to him. The discussions Mr B had with Halifax in July 2023, November 2023 or in February 2024 didn't change this or suggest other terms applied.

The call in July 2023

In July 2023 Mr B called Halifax. He was worried about affording mortgage payments if the mortgage went onto the SVR in November 2023. Halifax told Mr B it didn't recommend taking out a fixed rate product while the property was on the market for sale as this could result in an ERC.

Halifax told Mr B he might have options under the Mortgage Charter, to make payments more affordable while he sold the property. It said he could call nearer the time to discuss options, such as a payment plan, although this might affect his credit file. I think Halifax was fair when it set out the available options.

Mr B didn't find these options acceptable. Mr B was in a difficult position as he didn't know how long it would take to sell the property. Ultimately though, it was Mr B's decision to take out a new fixed rate product, despite the risk of having to pay an ERC.

The completion letter

Halifax sent a completion letter dated 3 October 2023 to Mr B. This set out Mr B's new monthly payment once the new product took effect on 1 November 2023. The letter said Mr B could cancel the product within 28 days of the date of the letter (that is, by 31 October 2023).

Mr B says it's unfair for Halifax to say the 28-day period to cancel the product started when it sent a completion letter (which he says he didn't receive). That's not what Halifax has said. It was always the case that Mr B could cancel the product up until it took effect on 1 November 2023, and not after that. The completion letter simply included a reminder of the deadline.

Mr B says the reference to being able to cancel within 28 days caused confusion. However, as I said, I think the mortgage illustrations and offer letter were clear that the product could not be cancelled once it took effect on 1 November 2023. The letter was consistent with this.

I think it's unlikely any confusion caused by the letter was the reason Mr B missed the opportunity to cancel the product before 1 November 2023. That's because he says he didn't receive the letter.

Calls about porting in November 2023

The mortgage illustration said the product rate and ERC could be taken to another property. This was subject to meeting lending criteria at the time.

Halifax didn't give Mr B correct and complete information in mid-November 2023 about porting. It didn't give him clear information about needing to start an application within three months of redeeming his mortgage. It didn't tell him that an application via a broker would be treated differently to an application made directly with Halifax.

This discussion was after the product had taken effect on 1 November 2023. Mr B wasn't able to cancel or withdraw from the product at this point without paying an ERC, regardless of any errors or unclear information about porting.

And, for the reasons below, I don't think Halifax's error in failing to give Mr B correct and complete information about porting in November 2023 is the reason he didn't port the product.

Information about porting in February 2024

A broker contacted Halifax in early February 2024 to ask about porting. Halifax gave the broker information about non-simultaneous porting applications submitted via a broker. That is, the customer would have to choose a product from the current range and complete the mortgage within three months for the ERC to be refunded.

The process for a porting application via a broker is different to a direct application. Mr B was able to apply to Halifax directly to apply to port his interest rate and have his ERC refunded. He'd need to make the application within three months and complete the mortgage within six months of redeeming his mortgage. Halifax gave this correct information to Mr B in February 2024. It's clearly set out in its final response letter dated 20 February 2024.

Mr B redeemed his mortgage in late January 2024. So he'd have needed to start a porting application by late April 2024. If Mr B wanted to port the interest rate he could have made a porting application directly with Halifax and he had enough time to do so. Mr B chose instead not to continue with his purchase. I don't think Halifax was responsible for his decision not to proceed with his purchase and porting application.

Mr B's complaint

I should explain here that complaint handling isn't a regulated activity. That means we can't always look into a customer's concerns about how a complaint was dealt with. While we can do so if the way a complaint was dealt with prevented the underlying problem being sorted out, I don't think that was the case here. Halifax responded to the complaint promptly. While Mr B says he put everything on hold while his complaint was in progress, I don't think that makes it fair and reasonable to require Halifax to extend the porting deadline. If Mr B wanted to proceed with a porting application in early 2024 he could have done so.

Putting things right

I know that Mr B will be disappointed. But taking all of the circumstances into account I don't think it's fair and reasonable to require Halifax to refund all or part of the ERC or require it to port Mr B's interest rate product outside its usual timescales.

I think for the inconvenience and upset caused by Halifax giving Mr B incomplete and incorrect information about porting in November 2023, £200 compensation is fair and reasonable.

My final decision

My final decision is that Bank of Scotland plc (trading as Halifax) should pay £200 to Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 October 2024.

Ruth Stevenson
Ombudsman