

The complaint

Mr and Mrs K's complaint relates to a charge Bank of Scotland plc trading as Halifax placed on their property title when they had a secured loan with it.

What happened

Mr and Mrs K took out a secured loan for home improvements with Halifax in 2002. The loan was arranged over a term of 10 years on a repayment basis. Halifax placed a charge on the property title as security for the borrowing.

The loan was repaid and the property re-mortgaged in 2012. At that time, Halifax has confirmed it would have provided the solicitors acting on behalf of Mr and Mrs K with the relevant documentation allowing its charge to be released. However, the charge was not removed.

In 2024, Mr and Mrs K were selling a part of the property and it was found that Halifax's charge had not been removed. They contacted Halifax as they wanted the charge removed and felt that if the sale fell through, it would be Halifax's fault.

Halifax didn't consider that it had done anything wrong and directed Mr and Mrs K to the solicitors and lender involved in the re-mortgage, as it would have been the conveyancing solicitors' responsibility to have removed the charge at that time. However, it subsequently identified more information and was able to liaise with Mr and Mrs K's current solicitors that would allow their charge to be removed and their sale to progress. However, Halifax considered it had taken it too long to provide this information, and it paid them £125 compensation.

Mr and Mrs K were not happy with Halifax's responses and referred the complaint to this Service. When this occurred, Halifax confirmed that due to the location of Mr and Mrs K's property, it had been unable to remove the charge in 2012 – this had been the responsibility of solicitors acting on their behalf.

One of our Investigators considered the complaint, but she did not recommend that it be upheld. She was satisfied that it was not Halifax's responsibility to have removed the charge and so it had done nothing wrong in that regard. As for the service Halifax had provided when Mr and Mrs K contacted it in 2024, she was satisfied that the compensation paid was fair in the circumstances.

Mr and Mrs K didn't accept the Investigator's conclusions and asked for an Ombudsman's decision. They said they had not been told at any point by Halifax they needed a solicitor to remove the charge. Furthermore, they'd incurred an additional £70 in legal costs in 2024 due to this matter and so the £125 was inadequate.

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.

I can understand that Mr and Mrs K are unhappy that the sale of part of their property fell through earlier this year because of the delay in the charge being removed. However, as the Investigator explained, in order to uphold a complaint, I need to be satisfied that Halifax made a mistake. In order to make an award of redress, I would need to be satisfied that a mistake by Halifax had caused Mr and Mrs K to suffer a financial loss.

Quite simply, in 2012 when Mr and Mrs K repaid their home improvement loan and re-mortgaged their property, Halifax could not have removed the charge on their property. In order for the charge to be removed, a solicitor acting on behalf of Mr and Mrs K would have had to produce a discharge form for Halifax to complete, and once it was completed, the solicitors would have had to complete a process with the Register of Sasines.

I note that Mr and Mrs K have said that they weren't told at any point that they had to have a solicitor to remove the charge. At such a distance in time, with the limited information available, I can't know what Mr and Mrs K were, or were not, told about having the charge removed. However, it remains the case that Halifax could not have done this on their behalf.

I know that Mr and Mrs K won't be happy with my conclusions, but as I have explained, in order to uphold their complaint, I need to be satisfied that Halifax did something wrong. I am not persuaded that the evidence supports that being the case. As such, I can't require Halifax to reimburse the legal costs Mr and Mrs K highlighted in their response to the Investigator's opinion.

That said, Halifax has acknowledged that it did not provide Mr and Mrs K with the level of service it should have when they first contacted it earlier this year. Given the difficulty in identifying the loan account and the lack of records about it, Mr and Mrs K's enquiries and concerns would not have been simple to address. Furthermore, the whole process took less than a month to resolve. In light of this, I am satisfied the £125 compensation for any distress or inconvenience Mr and Mrs K's experienced is fair in the circumstances.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs K to accept or reject my decision before 13 January 2025.

Derry Baxter
Ombudsman