

The complaint

Mr and Mrs W complain about Bank of Scotland plc trading as Halifax. They are unhappy with the valuation that was carried out in 2014 on their buy to let property. They think that the figure was too high.

What happened

Mr and Mrs W have an interest only mortgage with Halifax which was secured on a buy to let property. The original mortgage was taken out in 2014 for £60,000. At the time, Halifax arranged for a valuation to be carried out on the property which was assessed as £150,000.

In 2017 Mr and Mrs W applied for a further loan of £60,000 on an interest only basis bringing the total lending to £120,000. At the time, Halifax obtained a desktop valuation which showed in the mortgage offer as £175,628. Mr and Mrs W say that they were told by another party that the valuation was £155,000.

Mr and Mrs W had their property valued at the end of 2019 at £105,000 so if they were to sell it they will be left with a shortfall. Mr and Mrs W have said they have now repaid £110,000 to Halifax leaving a shortfall of around £26,949 outstanding as of 31 December 2024. They believe that the valuation that was carried out in 2014 was too high. The mortgage term ended in 2021.

A final decision was issued by our service on 24 March 2021 about the fact that Mr and Mrs W believed that Halifax wrongly gave them advice when they took out a further loan and that Mr and Mrs W didn't think they should pay for any shortfall on their mortgage. This complaint wasn't upheld. It was noted in that final decision that Mr and Mrs W were unhappy about the valuation carried out in 2014 so they were asked to make a separate complaint about this – which is what they have done now.

Mr and Mrs W brought this complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. He concluded that Mr and Mrs W's complaint had been brought outside of the relevant time limits. But he established that there were two complaints that Mr and Mrs W made – one being about the valuation specifically and the other about the unfair relationship caused between Mr and Mrs W and the Halifax based on the impact that the 2014 valuation has had on them.

The investigator thought we would be able to consider the second complaint about an unfair relationship caused by the valuation in 2014. Halifax didn't disagree with this and so our investigator looked at the complaint and said he wasn't persuaded that the valuation which was carried out in 2014 led to any ongoing unfairness or that Mr and Mrs W had been treated unfairly for having to repay the mortgage balance.

Mr and Mrs W didn't agree with the investigator. They said they cannot follow our logic or rationale – including that of the previous Ombudsman. They reiterated that the valuation from 2014 was inappropriate and unprofessional. Mr and Mrs W said that Halifax's advice and valuation has brought them near financial ruin and caused them mental health issues.

As Mr and Mrs W didn't agree with the investigator, they asked for the complaint to be reviewed by an Ombudsman, so it's been passed to me to decide.

My provisional decision

I issued a jurisdiction decision dated 13 February 2025 letting both parties know that I would only look into the valuation from 2014 and the fact that Mr and Mrs W thought this valuation figure was too high.

I also made it clear that an Ombudsman has already issued a final decision about the fact that Mr and Mrs W believe that they were mis-sold the further loan they took out on their mortgage, and they didn't think they were responsible for any shortfall. As a final decision has already been issued about this, I will not be commenting any further on it. I explained that the only consideration in this decision is about the valuation that was carried out in 2014 and the fact that Mr and Mrs W believe the property was valued too high.

I also said the following:

Having considered this part of the complaint, I'm not persuaded that the valuation which was carried out in 2014 caused any unfairness to Mr and Mrs W or that it may have been incorrect.

The valuation was carried out by a suitably qualified surveyor who said the property value was £150,000. It's important to note here that Mr and Mrs W purchased this property in 2014 at an asking price of £150,000 as confirmed by the mortgage offer. This doesn't therefore suggest that the valuation was incorrect.

Halifax were entitled to rely on this valuation and bearing in mind that the property purchase was also £150,000, I haven't seen anything that suggests this was out of line with the asking price.

I acknowledge that Mr and Mrs W's property value has since reduced and this has led to them having a shortfall on the mortgage, but I cannot say that this is a result of the valuation which was carried out in 2014.

I would also like to note that the courts have made a decision that a lender's surveyor doesn't owe a duty of care to a buy to let investor. The courts consider buy to let investors to have the relevant commercial judgement and awareness of the need to undertake their own survey about the property they are buying.

While I appreciate that Mr and Mrs W still have a shortfall on their mortgage, I'm not persuaded that this is because Halifax have acted unfairly in how the valuation was conducted.

Mr and Mrs W should engage with Halifax and see what options they may have in repaying the outstanding balance. They may also want to seek independent financial advice on the matter.

I've also thought about whether an unfair relationship was created as a result of Halifax's actions, but for the reasons I have already explained, I am satisfied it wasn't.

While I'm sorry to disappoint Mr and Mrs W, I have no basis to uphold this complaint.

Developments

Halifax didn't respond to the provisional decision but Mr and Mrs W did, and they didn't agree with what I had said.

They said my findings have no relevance to their most recent complaint which is about:

- Inappropriate and unprofessional valuations and an erroneous printed illustration in 2019 when the added advance was offered. In 2019, Halifax utilised both unprofessional and inappropriate valuations in their written loan illustration and in their verbal sales presentation techniques. They also failed to carry out any loan risk assessment.
- Mr and Mrs W are unhappy with the prohibited restriction in family occupancy under

buy to let. Our service appears to decide that Court Judgements about buy to let rule against any of the factual evidence in Mr and Mrs W's case.

- It was never explained that family members could not occupy and pay rent under a buy to let mortgage. Mr and Mrs W do not recall any additional condition being incorporated into the original 2014 mortgage. The additional advance in 2019 was not for buy to let purposes so Mr and Mrs W question Halifax's security.
- At the end of the mortgage term, Mr and Mrs W had contact with Halifax about the outstanding debt. Over £16,000 of debt was uncollected under their direct debit mandate covering five years of monthly payments.

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.

Mr and Mrs W have made comments regarding the printed illustration from 2019 and that Halifax failed to carry out a risk assessment at that time. As I've already mentioned, our service has already issued a final decision about the additional lending that has been carried out so this isn't a complaint that I can look at again and one that we would have to dismiss if Mr and Mrs W continue to try to bring this same complaint to our service. I therefore won't be addressing this any further.

With regard to the family occupancy under buy to let and that it was never explained to Mr and Mrs W that family members couldn't occupy the property and pay rent under a buy to let mortgage, this isn't a complaint point that I will be addressing within this decision. This is a new complaint point that they will need to raise with Halifax first as it's not the original complaint that has been brought to our service under this complaint. This complaint is specifically about the fact that Mr and Mrs W believe the valuation from 2014 was too high.

In regard to the point that Mr and Mrs W make about our service deciding that court judgments about buy to let rule against any of the factual evidence they have supplied, this isn't at all what I said. The point I made in the provisional decision about this was the fact that as a whole, that Halifax were entitled to rely on the valuation that was conducted in 2014 and that it was carried out by a professional valuer. The comment I made that the court considers buy to let investors to have the relevant commercial judgement awareness of the need to undertake their own survey about the property they are buying – was just an additional point. The matter here is that Halifax were entitled to rely on the opinion of a professional surveyor when the valuation was carried out in 2014 and I do not think they acted unreasonably here.

The final point to address is that Mr and Mrs W have made comments about issues they had with their direct debits which they believe has caused some of the shortfall that is now outstanding.

This isn't a complaint that has been brought to our service either and to reiterate again, this decision and this complaint that was brought to us was about the valuation being too high in 2014. Mr and Mrs W will need to set up a new complaint about this should they wish to do so. I can see that the investigator has already explained this to Mr and Mrs W.

Based on the comments that Mr and Mrs W have made, I see no reason to depart from my provisional decision.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W

to accept or reject my decision before 28 March 2025.

Maria Drury
Ombudsman