

## The complaint

Miss S and Mr W complain that Bank of Scotland plc trading as Halifax knew their solicitor hadn't completed the work to register their property purchase to them, but it never told them. Miss S and Mr W said this caused stress, costs, and delays when they tried to remortgage.

## What happened

Miss S and Mr W purchased their new home, and took out a mortgage with Halifax, in September 2020. The interest rate was fixed until the end of September 2022. Miss S and Mr W planned to remortgage elsewhere after this rate fix ended. And they started this process in good time, in April 2022. But then they discovered that their property purchase had never been registered with the Land Registry. They asked Halifax about this, and it said it had been chasing their solicitor for confirmation of the registration.

Miss S and Mr W said this delayed their remortgage with a different lender. And it cost them £1,356 in additional legal fees, to get a different solicitor to register their ownership of their home. They told us that the solicitor's firm they had used for conveyancing in 2020 had been closed down in 2022 by the Solicitors Regulation Authority ("SRA") so they couldn't get the same solicitor to do the work now.

Miss S and Mr W said if Halifax had told them about the outstanding registration, they could have chased at the time, and they felt the costs and stress they'd had recently could both have been avoided. So they wanted Halifax to reimburse the legal fees they'd had to pay recently, to get the registration done.

Halifax said it was very sorry this had happened to Miss S and Mr W, but it didn't think this was its fault. It said it had followed its own process, of contacting the solicitor to make sure the registration was done. And it said even if Miss S and Mr W had chased their solicitor themselves, Halifax didn't think things would have been any different. If that solicitor hadn't been prepared to listen to Halifax or to the SRA, then Halifax didn't think it would have done the work just because Miss S and Mr W chased it.

Halifax wouldn't pay Miss S and Mr W the costs they'd incurred, because their first solicitor had let them down. Halifax suggested they could complain about that solicitors firm.

Our investigator didn't think this complaint should be upheld. She said she could see Halifax had chased the solicitors multiple times to register its charge over the property. It followed its own internal processes in contacting the solicitors, rather than talking to Miss S and Mr W. And Halifax said it wouldn't interfere in the relationship between a solicitor and client.

Our investigator said that, given that this firm was closed down by the SRA for not fulfilling obligations to clients, she thought it was unlikely the solicitors would have registered the property if Miss S and Mr W had also chased them. She understood that Miss S and Mr W had incurred the expense of another solicitor registering the property, but she didn't think that was because of any mistake Halifax had made. So she said she wouldn't ask Halifax to reimburse them for that cost.

Mr W and Miss S didn't agree. They said their complaint was Halifax never told them that it was waiting for details of their property to be registered with the Land Registry. They said it wasn't good enough to just chase the solicitor. Miss S and Mr W said this would only affect them, and it was in Halifax's best interest not to tell them about this missing information, because when their fixed rate was up they would either have had to go on to a variable rate with Halifax until registration was done, or sign another term with Halifax.

Our investigator didn't change her mind. She still thought this wasn't Halifax's fault, and it wasn't under any obligation to contact its customers in relation to the registration of a property. But Miss S and Mr W maintained that Halifax should have told them that it required further information. They said that this extremely poor process only benefitted Halifax and gave no consideration to the customer impact.

Miss S and Mr W wanted their complaint to be considered by an ombudsman, so it was passed to me for 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.

I've reached the same overall conclusion on this complaint as our investigator.

I understand Miss S and Mr W are upset and disappointed that their property purchase wasn't registered, and I'm sorry to hear that this has happened. I accept that this would have led to stress, costs and delays with their remortgage. But, like our investigator, I don't think this is Halifax's fault.

The first point to make, is that what has happened to Miss S and Mr W is very much out of the ordinary. Bearing that in mind, I don't think it's unfair or unreasonable for Halifax's process just to involve chasing the solicitor's firm, and not to include a further stage of notifying Miss S and Mr W of any problems. I would anticipate that circumstances like this are very rare indeed.

And the second point is that I don't think Halifax's process benefits it, in the way Miss S and Mr W have suggested. Broadly speaking, when a solicitor acts for both the buyer and the mortgage lender in a purchase, that solicitor is doing two things. It's ensuring the legal work for the purchase is done, for the buyer. And it's ensuring the relevant charge is registered against the property, for the lender, so the property can't be sold without the associated mortgage being redeemed. That's how the lender ensures that it has security for its loan.

So when Halifax chased the solicitor, it was primarily concerned with checking if work it had commissioned had been done, not if work Miss S and Mr W had commissioned had been done. And all the time that work wasn't completed for Halifax, the lender's charge wasn't properly registered over the property. I would strongly disagree with Miss S and Mr W that Halifax could have expected to benefit from a situation where its charge hadn't been formally registered over the property.

Finally, I should just note that I would agree with Halifax, and our investigator, that I don't think things would have been different if Mr W and Miss S had been told their purchase wasn't yet registered. If the solicitor's firm was not moved to complete the work it had undertaken to do, by any concern about being removed from Halifax's panel of approved conveyancers, and was also not moved to complete this work by any concern about being

closed down entirely by the SRA, then I just don't think it was likely Mr W and Miss S could have persuaded it to complete this work either.

For those reasons, I agree with our investigator that Halifax isn't responsible for what's gone wrong here. I don't think it's been unreasonable or unfair. I know Miss S and Mr W will be disappointed, but I don't think this complaint should be upheld.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S and Mr W to accept or reject my decision before 3 August 2023.

Esther Absalom-Gough  
**Ombudsman**