

## **The complaint**

Mrs P complains about the poor service she says she received from Bank of Scotland plc trading as Halifax, during calls to discuss managing her mortgage.

## **What happened**

Mrs P has an interest only mortgage with Halifax. She is currently paying Halifax's standard variable rate (SVR). Due to the recent interest rate increases, Mrs P's mortgage payments started to go up.

In May 2023 Mrs P complained to Halifax about the poor service she says she received when trying to discuss options for managing her mortgage.

Mrs P says that during two telephone calls with Halifax, staff were rude and unhelpful. She felt pressured into discussing her repayment type rather than what rates were available to reduce her outgoings. Mrs P says she felt disrespected and demeaned. She says that the distress and bullying led her to end both calls early without continuing with the appointments. As such she has remained on the SVR, and her payments have continued to increase.

Halifax answered the complaint. It said that whilst it could not locate the calls Mrs P was referring to, it upheld the complaint based on the information she provided. Halifax apologised for the service Mrs P says she experienced. It offered a new appointment and explained why it would ask about the repayment vehicle in such circumstances.

Unhappy with Halifax's response, Mrs P brought her complaint to our service. She says that because Halifax upheld her complaint, it should pay her compensation. Mrs P has provided details of her long-standing medical conditions and vulnerabilities. She says this whole encounter including the complaint process has caused her unnecessary distress and inconvenience, and that should be acknowledged by Halifax – and compensation paid.

An investigator at our service looked into things. He said that despite Halifax's efforts to locate records of the calls mentioned, no records have been found. He does not dispute the events described by Mrs P, but with such limited evidence, he can't reasonably ask Halifax to offer anything more than an apology, of which it has done.

Mrs P remained unhappy and asked for her case to be decided by an ombudsman. She thinks the onus is on Halifax to provide recordings of the calls that took place. In absence of such evidence the complaint should be found in her favour.

## **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 available evidence is incomplete, contradictory or missing, our rules require me to reach my conclusions on the basis of what I consider is most likely to have happened on the balance of probabilities. That's broadly the same test that the courts use in civil cases.

I don't have any reason to doubt Mrs P's testimony about the service she received from Halifax. I appreciate she feels very strongly about her case, and I fully empathise with her circumstances. It's clear from what she has openly told us and Halifax – that she has been through a difficult time due to her ongoing health concerns.

Halifax has apologised to Mrs P for the events she says she experienced. It offered to put things right by arranging a new appointment with a dedicated mortgage advisor. Mrs P doesn't think that's enough and she's seeking compensation as a resolution to her complaint.

For me to uphold this complaint against Halifax and legally order it to make a financial award to Mrs P, I'd need to be satisfied that the events complained of, more than likely happened in the way described by Mrs P. This would in turn allow me to determine what, if any, compensation should be awarded and the extent of the payment.

I'm required to reach my decision on the basis of what I consider is most likely to have happened, on the balance of probabilities. Ultimately, what that means for Mrs P is that, as the party bringing the complaint, it falls to her to present a case that satisfies that test.

Having considered what both sides have said, I don't find there is enough evidence for me to say that on balance of probability, Halifax treated Mrs P unfairly or that it spoke to her in a way that I could reasonably award compensation for.

When investigating Mrs P's concerns, I'm satisfied that Halifax took reasonable steps to try and locate records of the relevant calls. It tried to obtain as much information from Mrs P as possible to narrow its search – including any information about the date and time of the calls, the names of the advisors and which telephone number she used to call from. Mrs P's recollections were vague. Halifax ultimately couldn't locate any record of these calls happening. It had no call recordings, appointment records, contact notes, or call summaries. It even reached out to some of its mortgage advisors directly to check for their recollection of speaking to Mrs P. Of which they had none.

In the absence of evidence, Halifax gave Mrs P the benefit of doubt about the way she was made to feel based on her version of events. In the circumstances I think an apology is reasonable. I don't think it's unreasonable for Halifax to ask questions about Mrs P's plans to repay her interest only mortgage during a mortgage review. And without records of the calls and a recording that satisfies me on balance of probability, that Mrs P was more than likely treated unfairly or spoken to rudely – I can't reasonably say this complaint falls on anything more than a misunderstanding.

I appreciate this will come as a disappointment to Mrs P, but I hope my explanation has helped her to understand why, in the absence of evidence, I'm not able to reasonably uphold this complaint and order Halifax to pay Mrs P compensation in such circumstances.

I also don't agree that Halifax took too long to answer Mrs P's complaint as she's suggested. Mrs P raised this complaint with Halifax on 26 May 2023. Halifax made attempts to obtain more information from Mrs P to help with its investigation. That took some time. But ultimately a final response letter was issued on 4 July 2023 – within the allowed eight-week period to respond to a complaint

### **My final decision**

My final decision is that I don't uphold this complaint and I don't expect Bank of Scotland plc trading as Halifax to do anything more than it has already offered in its final response letter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 22 December 2023.

Arazu Eid  
**Ombudsman**