

The complaint

Ms X complains that Bank of Scotland plc trading as Halifax won't agree to remove her husband from their joint mortgage following their separation.

What happened

Ms X has a mortgage with Halifax. The mortgage is in joint names with her husband, Mr Y – who she has separated from. Ms X survived domestic and financial abuse in that relationship.

In 2020, Ms X applied to remove Mr Y from the mortgage. Halifax accepted the application - but Mr Y would not agree to be removed from the mortgage.

In 2021, Ms X applied again to remove Mr Y from the mortgage. But Halifax declined the application because it did not consider the mortgage was affordable in Ms X's sole name.

Ms X complains that Halifax has not treated her fairly. She said that she's been paying the mortgage by herself since the separation and Mr Y no longer wishes to be involved with the mortgage. After the application was declined, it was referred to Halifax's vulnerable customer team, only to be declined again. The process was very stressful and upsetting, because of the length of time it took and the outcome.

Ms X considers the decision made by Halifax to decline the application because it was unaffordable was unreasonable in the circumstances. She'd demonstrated she could pay the mortgage by herself. The connection to Mr Y had made it difficult for her to obtain cheaper credit and that had contributed to her overall financial position. It was unfair that she was being forced to maintain financial ties with someone who was abusive – that was putting her and her children at risk. And Halifax had not taken into account that her financial position would improve once the association had ended. It should look more flexibly at the application, for example by considering whether a longer term would be affordable.

The investigator did not think the complaint should be upheld. He said that Halifax had considered the application fairly and Ms X had not shown that the mortgage was affordable. He added that he didn't think the time taken to review the application was due to any inaction by Halifax. It was reasonable for any paperwork to remain in joint names as that reflected the true position.

Ms X did not accept what the investigator said. She said the investigator had not properly considered that she had been the victim of domestic abuse. Halifax should consider the application outside of its usual policy to keep up with societal changes and to recognise the difficulties faced by those who had experienced domestic abuse.

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 thank Ms X for her honesty in sharing sensitive information about what she has been through – I appreciate that would have been difficult for her. I accept that she has experienced domestic and financial abuse in her previous relationship and I was sorry to hear what she's been through. I agree that *on the face of it*, it would be in Ms X's interests for the mortgage to be in her sole name – that is what Ms X wants, Mr Y has agreed to that and it would be remove a significant source of trauma from Ms X's life. But those are not the only considerations for a mortgage lender.

I agree with Ms X that Halifax should take her overall circumstances into account in considering whether to switch the mortgage to her sole name. In these circumstances, it wouldn't be reasonable for it to apply its usual affordability requirements. Good practice would require a lender to apply a degree of flexibility to its decision making and not rigidly apply its usual affordability checks. But, of course, whether the mortgage would be affordable would still be a key consideration.

I consider that Halifax acted reasonably by referring Ms X's application to its vulnerable customer team for review after it was initially declined. This is in line with the steps it should take. It is reasonable for a lender to ask for evidence to support an application – and I think the information Halifax asked for was fair and proportionate. I appreciate that the consideration of the application took some time. But I can't see that was a result of any undue delays by Halifax.

Halifax has provided evidence to show how it looked at Ms X's application. There is detailed consideration of Ms X's overall circumstances. And Halifax thought about whether extending the term of the mortgage would make the lending affordable. But looking at the information Halifax had, it was reasonable for it to conclude that the mortgage would be unaffordable and/or unsustainable in Ms X's sole name.

I can see that Halifax considered extending the term of the mortgage. But looking at the evidence we have, it would not appear to make the mortgage affordable and sustainable taking into account Ms X's outgoings, even if Halifax extended the term by the most it could. And I note because of Ms X's age, a longer term extension might involve lending into her retirement. While it was reasonable for Halifax to apply a stress test, it does not appear that it would have made a difference to its decision if it was not applied.

After careful consideration, I think it would be difficult for me to conclude that there was any unfairness in the way that Halifax reached its decision.

I am very sorry to disappoint Ms X. I agree that the mortgage remaining in joint names is unsatisfactory – and I know that will cause her a lot of ongoing distress. But the evidence I have does not support that Halifax has acted unfairly or unreasonably in reaching the decision it did. It reflects that the borrowing was agreed to and entered into in joint names – so it was entitled to carry out checks before approving a switch to Ms X's sole name. Halifax understood Ms X's situation and has undertaken a thorough and fair assessment of whether to put the mortgage in her sole name. But in all the circumstances it would be difficult for me to say that the decision it reached was wrong.

Of course, circumstances can change. Halifax should remain open to considering further applications from Ms X if her situation changes. I note that it offered to allow Ms X to switch to a fixed rate and would waive any early repayment charge. I think this is fair.

As the mortgage remains in joint names, it isn't unreasonable for any paperwork relating to the mortgage to remain in joint names. But Halifax should take steps, wherever possible, to write to Ms X and Mr Y separately and not address correspondence jointly

My final decision

I am sorry to disappoint Ms X, but my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms X to accept or reject my decision before 8 February 2024.

Ken Rose
Ombudsman