

The complaint

Mr C complains that Bank of Scotland plc trading as Halifax put the mortgage he held jointly with his former partner, onto a nil payment plan without his agreement or knowledge. When he objected, Halifax said it would cancel this. But it didn't cancel, and didn't tell him it hadn't.

What happened

Mr C said he had a mortgage, held jointly with his former partner. He moved out of the property in July 2022, and stopped paying the mortgage then. Mr C said he found out in late November 2022 that earlier that month, Halifax had agreed his former partner could stop paying the mortgage for a time, while attempts were made to sell the house. Mr C said that decision was taken by Halifax without his agreement or even knowledge, and he said it would affect his credit score and his chances of getting another mortgage.

Mr C told us he rang Halifax to cancel the agreement, and it said it would do so. But then it changed its mind. Mr C said Halifax didn't contact him to tell him the agreement had remained in place. And he said if his former partner had been able to make a unilateral decision on the joint mortgage, to put a payment plan in place, then he ought to be able to take a unilateral decision to take it off again.

Mr C said he updated his address with Halifax in July 2022. He showed us correspondence from Halifax which acknowledged his change of address. But he said Halifax continued to send all his mail to his old address. Then, after he'd complained about the payment plan, it started to send him post with his former partner's name on it.

Mr C said he was accruing debts which were out of his control. He said this was happening because the joint owner of the property was refusing to market it at a price which would attract a quick sale. Mr C wanted the debt to be cancelled by Halifax, and for Halifax to repossess the property.

Halifax accepted it had told Mr C it would cancel the payment plan on this mortgage. It said it shouldn't have told Mr C that. It didn't think it should cancel the plan when no one was offering to pay the mortgage. And Mr C had been clear on the call he wasn't going to pay.

Halifax said it had tried to call Mr C back to explain, but couldn't get in touch. So Halifax also accepted that Mr C would have understood the plan had been cancelled.

Halifax said it should have made clear on the call it had with Mr C that it wouldn't cancel the plan if he wasn't going to make payments. Halifax said if it had cancelled the plan, arrears would still have accrued on the mortgage, because no payments were being made. Having the plan in place meant no legal action was taken on the arrears.

Halifax showed our service that there were no payments into this mortgage for December 2022, or January or February 2023, the period covered by the plan. It said these arrears would be reported on Mr C's credit file, and it didn't think it had made a mistake about that.

Halifax showed us that it had written to Mr C when the payment plan was first put onto the mortgage, but it sent this to the property address. Halifax said it hadn't received an updated address from Mr C until 17 January 2023, when he raised this complaint. So Halifax didn't think it was its fault that Mr C hadn't received its letters about the account. And it had told him it wouldn't write to either him or the other party to the mortgage while a plan was in place.

Halifax said it had Mr C's new address now, and it was sending him information on the mortgage. Halifax paid Mr C £40 for the distress it had caused, but it wouldn't do more than this.

When this complaint came to our service, Halifax said it had since realised that Mr C had updated his address with it on 27 July 2022, long before the plan was put onto the mortgage. So it should have been sending its correspondence to the right address for him much earlier than it did. It said unfortunately it hadn't added this information to his mortgage account at the time. Halifax didn't increase its offer of compensation, it still thought it had resolved this case fairly.

Mr C also wrote to update us. He said he'd agreed to sell the property in June 2022. He'd requested a payment holiday then, but he said Halifax turned him down, because it wouldn't agree this on properties which were up for sale. Mr C said with hindsight this seemed unfair.

Mr C told us that his former partner delayed the agreement of an estate agent to market the property. And almost immediately after one was finally appointed, his former partner then changed her mind, and started court proceedings. Mr C said a different agent was appointed at a hearing in November, but the valuation was out of date, it didn't reflect a recent drop in property prices in his area.

Mr C said it was only when the house was marketed in early December that he discovered a third party had been paying the mortgage after he moved out. Mr C said that Halifax told him that when it made decisions, it "favoured" whichever one of the joint mortgagees who was paying the mortgage currently, despite Mr C having paid for years before this. But Mr C said in this case, it wasn't one of the two joint mortgagees making the payments.

Mr C said he thought this third party could keep paying, and that's why he wanted Halifax to cancel the plan. Mr C said that keeping the plan in place was only encouraging his former partner to hold out for the most money from the house instead of encouraging the quick sale that was so desperately needed. Mr C said he felt the property wouldn't sell at that price, and he couldn't require a reduction by himself. So he said repossession seemed like the only way forward.

Mr C said that after the plan expired, he was told that his former partner had applied for a hold on the account. He was unhappy about how this had been handled too, and Mr C said that he'd made a further complaint about this.

Mr C said he'd received the payment of £40 from Halifax. And he said the house was now being sold, after the judge at a more recent hearing had ordered that the price be reduced.

Our investigator didn't think this complaint should be upheld. He said Mr C's correspondence address should have been updated by Halifax in July 2022. So he said Halifax should pay Mr C a total of £150 in compensation, less the £40 already paid. But our investigator didn't think Halifax made a mistake by refusing to remove the payment plan. Mr C had been clear that he wouldn't pay the mortgage, and Halifax shouldn't have agreed to cancel the payment plan in those circumstances.

Halifax agreed to that, but Mr C didn't. He said we still hadn't told him why one party could change the mortgage without the agreement of the other, or why his request to cancel the payment plan was rejected. Mr C said this would have long term effects on him, and he said it just caused months of additional arrears, while the property was unsold. Mr C said those arrears meant that he was unlikely ever to be able to get a mortgage again, and also affected other important financial arrangements.

Mr C said Halifax didn't attempt to contact him to tell him it wasn't going to cancel the plan after all. He had no missed calls or texts, and he thought if Halifax couldn't speak to him about this, it should have written. Mr C said he'd also given Halifax his new address on the call when he tried to cancel the payment plan.

Our investigator didn't change his mind. He said Mr C had been very clear that he wouldn't pay the mortgage himself. And in circumstances where no payments were being made by either party to the mortgage, it was generally better for a payment arrangement to be in place, as this shows other prospective future lenders that steps were being taken to manage the situation. Our investigator said he was satisfied that it was fair for Halifax to agree the arrangement, without getting Mr C's consent first.

Our investigator also said he thought Halifax had tried to call Mr C back, as he'd seen evidence of this. Halifax hadn't then realised its mistake in not properly updating Mr C's address. Our investigator said he'd suggested Halifax pay more compensation because it should have written to Mr C. But he said that because Halifax hadn't realised its mistake at this time, this letter still wouldn't have reached Mr C.

Our investigator thought Halifax had correctly reported the missed payments on Mr C's credit file. And he said he wouldn't look at what happened after Mr C made his first complaint, as that was all Halifax had had a chance to respond to, in this case.

Mr C continued to disagree. He said that he believed it was up to him how he managed his loans, and he would then be responsible for the consequences of any decisions he had made. But he didn't think this was for anyone else to decide. Mr C also said he'd been told in November that there was no difference between a payment plan with nil payments, or mortgage debt accruing without a plan in place, which is why he'd asked Halifax to remove the plan. Mr C said a third party had paid the mortgage since July 2022, and he assumed this would continue. But Mr C said he'd paid the mortgage for years before this, and someone paying for a few months shouldn't be favoured in decisions.

Mr C said only one attempt at contact wasn't acceptable. And he repeated that he'd updated his address again on the call in November, so he should have got any letter sent after this. Because no agreement was reached, this case then came 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.

Halifax has accepted that Mr C did give it his new address on 27 July 2022. And I've listened to the call where he did so. After this date, all Halifax's correspondence should have been sent to Mr C's new home. We know it wasn't. I've also heard, on calls on 1 December, that Halifax used this new address to identify Mr C. So I don't think he could reasonably have been expected to realise then, that Halifax still wouldn't send its correspondence out to this new address.

I don't think that what Halifax has done would have been different, if Mr C had received its correspondence. (I'll explain why I've reached that view below.) But I do think Mr C should have been kept properly informed about developments and changes on his mortgage. For that reason, I agree with our investigator that Halifax should pay Mr C some additional compensation because of that.

When Mr C called to discuss the payment plan on the mortgage on 1 December, he was concerned that he'd requested a payment holiday some months earlier, but that had been refused. The agent explained that the current arrangement wasn't a payment holiday, and arrears were still accruing.

Mr C then called back. He wanted the payment plan removed, and was repeatedly told that could be done for him. Halifax then decided it wouldn't remove the plan after all.

I do think Halifax should then have contacted Mr C again to let him know the plan was still in place. Although Mr C doesn't appear to have told Halifax that he thought the plan was making things worse, he wasn't given the opportunity to do so, because he didn't know right away that the plan hadn't been cancelled. I think he should have been told this, and given the opportunity to express his views.

But again, I think it's unlikely things would have been different in December, even if Mr C had been told the payment plan was still in place. Halifax had explained that this was a joint mortgage, and Mr C would remain equally liable for payments until the property was sold. So the only way to avoid any negative mark on his credit file, was for someone to make the payments.

Halifax had already spoken to the other joint party, and as Halifax had agreed to take no action when no payments were received, it had presumably accepted that this person wasn't in a position to make payments. Mr C was clear he couldn't pay either – he had rent to pay.

Halifax is under a legal duty to tell credit reference agencies, when payments to a mortgage aren't being made. If it's a joint mortgage, Halifax has to report this onto the credit files of both of the people who are liable to pay the debt. So I don't think it was wrong for Halifax to do so.

I know our investigator said that a payment plan does usually look a bit better, on a credit file, than just missed payments. I don't think this is something Halifax had said to Mr C, and it's told our service that when someone's on a nil payment arrangement, like this one, it just reports the missed payments, not an arrangement to pay. I can see that Halifax has just reported missed payments, not a payment plan, so I think it's done what it said it would do.

That means the main advantage of this plan was that it meant Halifax didn't start any legal action on this account. I know Mr C thought Halifax wasn't really helping, as he thought the property was being marketed at too high a price, and the plan was just allowing this to continue. But I think it was reasonable for Halifax to allow a little time for the property to sell.

Halifax would charge for legal action taken to enforce this debt, and those costs would have been added to Mr C's mortgage. So, notwithstanding Mr C's concerns about the pricing of the property, I still think it was reasonable for Halifax to give some time for the property to sell. I don't think Halifax should have removed the plan in the three months I'm considering here.

When Mr C complained to us, he said he thought that the only way to sell the property would be for Halifax to repossess it. But I understand that Mr C then addressed the marketing of

this property as part of his divorce proceedings, and publicly available records suggest that the property has since been sold. I think it's likely that this would always have been the most expedient and cost effective way to address this issue.

I don't think Halifax was favouring either party when it made decisions about the nil payment plan on this mortgage. It put the plan in place when it was told by the person who'd been paying, that they were going to stop. I don't think it needed to talk to Mr C, or obtain his agreement, before it did that.

I've noted above that Mr C should have been told about the plan. That's not because I think it was unfair for Halifax to act without his agreement, it's because Mr C should have been offered the opportunity to pay the mortgage himself. I understand Halifax did write, but Mr C didn't get that letter because of Halifax's mistake about his address.

However, I've also got to bear in mind that Mr C did become aware of the plan, he then spoke to Halifax, and he was clear he couldn't pay. So I think it was then reasonable for Halifax not to remove the plan.

Mr C has also expressed concerns about what happened later, after this plan lapsed. But I won't look at those concerns here. The complaint Mr C initially brought to our service doesn't deal with a later hold on the account, or with the names on correspondence sent to Mr C. And I don't want to delay a resolution on this issue by reopening the investigation now. So I make no comment on those issues. My conclusion is just that for the three months that Halifax had this nil payment plan in place, I think it was reasonable for the plan to be there.

I understand that Mr C has been very upset by what Halifax has done here, and he feels that his credit file is being affected by something he isn't really responsible for. I appreciate that this has been a difficult time for Mr C, and that he thinks Halifax hasn't helped. But I think that it has taken reasonable steps here – and that's why, although I do think it failed to keep Mr C properly informed of what those steps were, I don't think things would have been different if it had done. That's why, like our investigator, I do think that a total payment of £150 provides a fair and reasonable outcome to this complaint.

Mr C told us he got the £40 that Halifax previously offered, so my decision below would require Halifax to pay the remaining £110, if it hasn't already done so.

My final decision

My final decision is that Bank of Scotland plc trading as Halifax must pay Mr C a total of £150 in compensation for this complaint. Bank of Scotland plc trading as Halifax can count towards that total payment of £150, any payment it has previously made to Mr C for this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 January 2024.

Esther Absalom-Gough
Ombudsman