

## **The complaint**

Ms B, Miss K and Mr K complain that Bank of Scotland plc has treated them unfairly when they attempted to complete a re-mortgage with a change of borrower.

## **What happened**

This complaint has been brought by all three of the account holders named above, but Mr K has taken charge of the complaint and was the person in contact with Bank of Scotland in reference to the mortgage application. So for ease of reference, I'll refer mainly to Mr K throughout my decision, except where it is relevant not to.

Mr K spoke with Bank of Scotland in early July 2022, he was keen to organise a change of borrower and product transfer for the mortgage. The plan was to remove Miss K from the mortgage, leaving Ms B and Mr K only on it. His existing mortgage product was due to expire at the end of September and after this, the rate would revert to Bank of Scotland's standard variable rate (SVR).

The application was declined and Bank of Scotland said this was because of affordability. Mr K said the mortgage had been primarily paid by him only and it was agreed that an appeal would be submitted to Bank of Scotland's underwriters.

By 2 August 2022, Mr K hadn't heard anything from Bank of Scotland and he approached a third-party broker who provided two mortgage illustrations for an application in his name only.

He spoke with Bank of Scotland on 4 August 2022 and asked what was happening with his application as he hadn't heard anything. It was explained the adviser he'd been dealing with was on annual leave but due back the following week. The person he spoke with on the phone suggested she could help but would need to do a full telephone appointment which could be done the next day. But with this only being a few days before the mortgage adviser who was already dealing with the application was due back, she didn't think it would save much time. Mr K agreed to wait to hear from his mortgage adviser but expressed his dissatisfaction at the service he'd received and the concern he had about increasing rates and the rate he'd likely be able to achieve because of the delay. Bank of Scotland said this would be looked into but until the application was completed, it wouldn't be able to determine if the delay had resulted in Mr K losing out.

Mr K didn't receive a call back until 5 September after he made a formal complaint at the end of August. At this point Bank of Scotland explained the mortgage application with the change of borrower couldn't be progressed as it was declined on affordability. But it could offer a product transfer for the mortgage in all three names as it was currently set up. Mr K declined this and said he no longer wanted to stay with Bank of Scotland.

Bank of Scotland looked at Mr K's complaint and said it was sorry for the delay in progressing the application. For this it offered £40, but it said the application had been declined because it didn't meet its affordability requirements.

Our investigator looked at the complaint and felt Bank of Scotland needed to do more. She recommended Bank of Scotland pay an additional £100 for the distress and inconvenience but she didn't think it needed to anything else.

Although there was a delay in Bank of Scotland confirming the application had been declined, she didn't think it had done anything wrong when it said it couldn't offer a new product with a change in the number of borrowers. And on 5 September, Bank of Scotland offered to do a product transfer for the mortgage if there was no change to the borrowers – this was before the mortgage's existing product rate was due to end. As this was declined, she didn't think it was fair to say Bank of Scotland needed to do anything else.

Mr K didn't agree with the outcome. He explained the Bank of England (BoE) base rate had increased by 0.5% in the time it took Bank of Scotland to tell him the mortgage wasn't affordable based on the changes he wished to make. Because of this he lost the opportunity to look for alternative arrangements sooner. He said he wasn't offered a new product on the existing mortgage with no change in borrowers and it is right he is compensated for this. He asked that Bank of Scotland increase the compensation to £750 and refund the difference paid each month between any fixed rate they might have been offered and what they paid on the SVR.

Our investigator's opinion remained unchanged. She said Bank of Scotland explained when the application was first made that it had been declined and an appeal on this decision was always likely to take some time. On 2 August Mr K obtained a two- and five-year fixed rate illustration in his sole name from a third-party broker. Bank of Scotland offered to move the mortgage to a new product without changing the borrowers at the start of September when it responded to the complaint but this was declined. With this, she didn't think the delay in being told the appeal had been declined was the most likely reason that the account had reverted to the SVR at the start of October 2022. And she felt the desire to change the borrowers on the mortgage was more likely the reason – which Bank of Scotland couldn't agree to.

So while she understood the frustration at having to pay the higher monthly payment amount when the mortgage moved to the SVR, she didn't think Bank of Scotland had done anything wrong when this happened or that it needed to increase the compensation for this.

Because Mr K didn't agree, the complaint has been passed to me for 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 decided to uphold this complaint for much the same reasons as our investigator. I know Mr K will be disappointed with this as it stops short of offering the resolution he is hoping for, but I'll explain why this is the case.

It isn't disputed that Bank of Scotland caused a delay with the application and the appeal on this. It is the impact of this delay and whether it needs to go further as a result which Mr K doesn't feel is fair.

Interest rates did rise during the time Mr K made his initial application and was awaiting the outcome of the appeal and it is understandable why he would have been anxious to get a new product sorted that met his needs as soon as possible. And any delay in this being progressed would add to this.

When Mr K made the application to change the borrowers on the mortgage and take a new product, he knew it was initially declined but that the adviser would see if it could be reviewed by the underwriters. So although he believed there was a chance it might be accepted with the changes he hoped to make, he was aware at the initial stage, it had been declined.

Nearly a month after this, Mr K contacted a third-party broker and received two illustrations for a new mortgage in his name only, so I think it is clear he was considering other options if he wasn't able to change the mortgage as he hoped with Bank of Scotland.

On 4 August Mr K spoke with a new adviser at Bank of Scotland after asking for a call back on his application as he hadn't received an update and it was now a month old. He was told he would receive a call the following week and this didn't happen. It wasn't until the end of the month he raised a complaint about this and at this point it was confirmed the mortgage couldn't proceed with the changes but a new product could be offered without these.

Mr K had the option to secure a new product ahead of his existing rate coming to an end but declined to do this as it would have meant keeping the mortgage on the existing term. And based on the steps he'd taken in August to look at other options which allowed him to remove one or more of the other borrowers, I think it is likely this was something he wanted to do and this stopped him from taking a new product.

I'm not sure why Mr K didn't move his mortgage sooner after declining to take a new product with Bank of Scotland. This meant it remained on the SVR until the mortgage was redeemed in May this year. But I don't think it would be fair to ask Bank of Scotland to refund the difference paid above what he might have paid had he accepted a fixed rate product in September 2022, as I think this wasn't accepted as it didn't appear to meet the needs of Mr K and the changes he wished to make to the mortgage.

Equally, I cannot be certain whether he would have secured another rate with another lender had he made an application sooner. The mortgage illustrations do not confirm that, if progressed to a full application, Mr K would have been successful and cannot be taken to demonstrate an actual loss.

It is right that Bank of Scotland recognises the impact of its delay and the additional frustration this will have caused as rates increased while Mr K was waiting without an update on his application. But I think the amount offered now following our investigators recommendation is in line with the range of award I'd expect it to make put things right here.

### **Putting things right**

Bank of Scotland should pay Mr K £140 for the distress and inconvenience caused when it failed to update him sooner. If it has already paid the £40 offered in its final response, it need only pay the balance of £100.

### **My final decision**

For the reasons I've explained above, I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B, Miss K and Mr K to accept or reject my decision before 19 July 2023.

Thomas Brissenden  
**Ombudsman**