

The complaint

Mr H has complained that his mortgage was mis-sold to him by Bank of Scotland plc trading as Intelligent Finance (BOS). He is also unhappy with how BOS is treating him, after the interest only mortgage came to an end.

What happened

Mr H re-mortgaged from another lender to BOS in November 2007, through a broker. The mortgage was for just under £500,000 on an interest only basis, over a fifteen-year term.

The mortgage ended in January 2023. Mr H engaged the services of a representative, who wrote to BOS in September 2023. This correspondence included a complaint about the sale of the mortgage, as well as an offer for Mr H to pay BOS £350,000 in full and final settlement of the outstanding loan amount (which was around £535,000 at the time).

In November 2023, BOS sent a final response letter to Mr H's representative. In it, BOS said the mortgage had been recommended by a broker, and that it would've been the broker's responsibility to ensure the mortgage was suitable for Mr H. BOS also said that it wouldn't be up-holding the mis-sale complaint, because of the amount of time since the mortgage had started.

BOS also said it wasn't prepared to agree to the £350,000 offer but that it would refer Mr H to its Customer Priority Team, to consider how it could best support him. The letter ended by saying that Mr H could refer the complaint to the Financial Ombudsman Service, but that he'd need to do so within six months of the date of the letter.

Mr H says that his representative never told him about the final response letter, so he wasn't aware of any time limit to refer the matter to the Financial Ombudsman Service.

BOS has been trying to contact Mr H since the mortgage term came to an end, about repayment of the outstanding balance. In September 2024, Mr H wrote to BOS to explain that he had a potential sale of the mortgaged property lined up, for £540,000. And that, after costs, he could repay BOS around £520,000, which would leave a shortfall of around £50,000. Mr H said he'd engaged another firm to represent him in the matter, and it looks like BOS received authority to deal with that representative on Mr H's behalf, in November 2024.

Mr H completed a negative equity application form and this was sent to BOS in December 2024. BOS says it still needed up to date information about Mr H's income and expenditure, to be able to consider the sale.

In January 2025, Mr H complained to BOS that it had mis-sold him the mortgage. He also expressed frustration that BOS hadn't made a decision about the sale of the property. BOS issued another final response letter. It said it had already considered the mis-sale complaint in 2023 and that its decision about that remained unchanged.

Mr H referred his concerns to the Financial Ombudsman Service. An Investigator here

issued an assessment of the case. In summary, they said we couldn't consider the complaint about the mis-sale, because the issue was referred outside of the six-month window and exceptional circumstances didn't apply. They also said that it was the broker, not BOS, that was responsible for the advice to take out the mortgage.

The Investigator said they could consider BOS's actions in terms of its approach to the potential negative equity sale. But they didn't think BOS had acted unfairly in relation to that issue.

Mr H didn't agree. He emphasised that his representative in 2023 hadn't told him about the six-month window, and he thought it wasn't fair that he should be penalised for this. He also said that the broker had been working on behalf of BOS, and so BOS should be responsible for the broker's advice.

Mr H also conveyed difficulties he was facing in terms of his health and financial situation. The Investigator was sympathetic to Mr H's situation, but didn't change their outcome. As Mr H remained unhappy, the case has been passed to me to decide.

I issued a separate decision explaining why the complaint about the mis-sale wasn't one that I could consider, as it hadn't been referred to us in time. This decision sets out my findings on the merits of the issue I can consider - how Mr H has been treated by BOS in relation to him wanting to sell the property.

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.

Having done so, I've reached the same conclusion as the Investigator, for broadly the same reasons. Before I explain why, I want to acknowledge the difficult circumstances Mr H has told us about, in terms of both his health and financial situation – and thank him for sharing this information with us. I appreciate this outcome will be disappointing for Mr H, although I hope that my explanation helps him to understand why I've reached the conclusion that I have.

Mr H's mortgage was taken out on interest only terms. This means that, at the end of the term, BOS was entitled to expect repayment of the outstanding balance. I appreciate Mr H believes the mortgage was mis-sold to him, but as I've said above, I can't consider this matter.

I can see that BOS has been trying to communicate with Mr H since the mortgage term ended, about the balance needing to be repaid.

BOS has said that it hadn't declined Mr H's proposal for a negative equity sale, but that it needed more information – about Mr H's income and expenditure – before deciding whether or not to accept the proposal. This was on the basis that agreeing to a negative equity sale could have serious consequences for Mr H and it wanted to evaluate whether agreeing to the sale would be in Mr H's best interests.

I consider BOS was acting reasonably in taking this approach. This is on the basis that, as before, the start point is BOS was entitled to expect repayment of the full outstanding balance, when the mortgage term ended in 2023. And I consider BOS had good reason to want to know more about Mr H's circumstances, before deciding whether or not to agree to the proposal of a sale for less than would be enough to repay the full outstanding balance. I understand that Mr H feels that progress was slow, and that he would've preferred BOS to just agree to the proposal, but I don't consider BOS's approach here has been unreasonable.

I don't know if the situation has changed since Mr H asked for the complaint to be escalated to an Ombudsman. If matters remain unresolved, I encourage Mr H to engage with BOS to explore the best way forwards. I'd remind BOS that it needs to treat Mr H fairly. If Mr H believes BOS hasn't treated him fairly, since raising this complaint, he would need to raise this as a new issue with BOS, before we could get involved.

My final decision

My final decision is that I don't uphold Mr H's complaint about Bank of Scotland plc trading as Intelligent Finance, in terms of the issue that I can consider.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 October 2025.

Ben Brewer
Ombudsman