

The complaint

Mrs K complains that Bank of Scotland plc (BoS) unfairly withdrew its acceptance of her negative equity property sale application.

What happened

Mrs K is represented by her son – Mr S. But, for simplicity, I'll refer to anything he's told us in relation to her complaint as if it came directly from Mrs K.

Mrs K originally took a mortgage with BoS in 2007 for approximately £105,000 on an interest only basis. Mrs K applied to BoS in July 2021 for its approval of a negative equity sale. BoS declined Mrs K's application because the buyer's offer was below market value, which it says was £105,000. BoS wrote to Mrs K on 20 December 2021 to confirm its decision.

Mrs K complained to BoS in July 2021, saying it should accept the buyer's offer of £87,500. Mrs K then referred that complaint to this Service and we issued a final decision on 18 July 2022 saying we did not uphold Mrs K's complaint. As we've already made a decision on that complaint, I'll not revisit that here.

Mrs K applied to BoS again for a negative equity sale in September 2022. The prospective buyer in relation to that sale was her son. BoS agreed to that application, confirming its decision in a letter dated 22 November 2022. In that letter it confirmed that its agreement was subject to a completion deadline of 23 January 2023. It agreed a four-week extension to the deadline at Mrs K's request. But, due to the sale not completing by the new deadline, BoS withdrew its acceptance of Mrs K's negative equity sale application. It informed her, and her solicitor, of that decision in letters dated 12 April 2023.

On 1 November 2022 BoS changed its criteria for negative equity sales so that it no longer allowed such sales where the prospective purchaser had any relationship to the seller.

Mrs K complained to BoS because it had previously said it would accept the sale to her son, then withdrew its acceptance – she says without notice that it no longer considered that application open. She says that application should have remained open and so should not be subject to the rule change that prevents her from selling the property to her son while in negative equity.

In its final response letter dated 24 March 2025, BoS acknowledged that it had lacked clarity during a conversation with Mrs K's son on 18 February 2025. And it paid her £100 in that regard. It acknowledged that Mrs K's son informed BoS that he was her son during the 24 March 2025 conversation and BoS failed to tell him at that point that BoS would not agree to a negative equity sale to a relative. But it said Mr S had already applied for his mortgage and instructed solicitors, so it wasn't the cause of the costs he incurred.

And BoS said it sent Mrs K a letter on 12 April 2023, informing her it wouldn't be able to consider a new application. And, it says, that letter does not say she could proceed with that application at a later date. BoS says it sent a further letter on 19 April 2023 confirming Mrs K's application had been declined.

Dissatisfied with BoS' response to her complaint, Mrs K asked us to consider it. Our investigator didn't uphold Mrs K's complaint. He said he thought BoS gave Mrs K a reasonable amount of time to complete the sale of her property. So, he didn't think BoS acted unreasonably in declining the application when the sale didn't complete in the time allowed. And he didn't think BoS needed to reopen that application, so it was reasonable for it to apply its new criteria to the new application.

Mrs K didn't agree. She said her application to BoS wasn't closed as it was awaiting a mortgage offer and had received a memorandum of sale. And the memorandum of sale showed BoS that the sale was to Mrs K's son.

In response, our investigator explained why the various pieces of correspondence he'd seen didn't amount to BoS keeping Mrs K's application open. He also said he's listened to all the call recordings Mrs K had asked him to but heard no confirmation from BoS that the application was still proceeding. Mrs K still didn't accept his opinion. She said the fact that BoS didn't proceed with "*enforcement action*" shows that it was waiting for the mortgage offer.

As Mrs K didn't accept our investigator's opinion, her complaint has been passed to me for a 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.

To decide Mrs K's complaint, I've thought about whether it was reasonable for BoS to close her application to sell her property in negative equity when it did, having accepted the application on 22 November 2022. And I've thought about whether, having closed her application, it was reasonable for BoS to apply new criteria to the subsequent application which it declined on 12 April 2023.

Firstly, I've considered what BoS told Mrs K when it accepted her application for a negative equity sale on 22 November 2022. Its letter explained that BoS agreed to support Mrs K's sale under its 'Private Sale Scheme' – (it provided information to Mrs K about the terms and conditions of the scheme). That meant she would manage the sale of the property and use the sale proceeds as payment towards the mortgage balance. It would then work with her to agree a suitable way to repay the remaining balance. Within the terms and conditions, BoS said the sale of Mrs K's property must complete by 23 January 2023 at the agreed price of £105,000. It also outlined the circumstances under which it may withdraw its approval. First among those was:

"You are unable to complete the sale by the agreed completion date."

BoS' contact notes show that, on 11 January 2023, Mrs K emailed it (from her son's email address) requesting a four-week extension to the agreed completion date. BoS agreed to that extension.

However, as the sale didn't complete within the allowed extension period, BoS withdrew its approval. Its letter to Mrs K dated 12 April 2023 says:

"We've tried to contact your solicitor several times with regards to completion of sale. As we've not been able to establish when the sale is likely to complete, and our deadline completion date has now exceeded, we've had to decline your application."

We may be able to consider a new application for our Negative Equity scheme in the future if you'd still like is to consider this option."

As Mrs K's sale didn't complete by the deadline given in BoS' approval letter, and it stated it may withdraw approval if that deadline wasn't met in the same letter, I think it wasn't unreasonable for it to do so when it did. I think BoS acted reasonably in extending the deadline initially, but when the new deadline wasn't met, it withdrew its approval fairly.

I think the letter outlining its decision to withdraw its approval made it clear:

- That application was declined.
- Any further consideration would be a new application.

So, that means I also think, based on that letter, it was reasonable for BoS to treat Mrs K's subsequent request as a new application. And, in doing so, it was reasonable for its criteria at the time of that application to apply. BoS has confirmed that its criteria changed on 1 November 2022. Its change meant a negative equity sale wouldn't be approved where the purchaser was 'connected' to the customer – meaning a family member, friend, neighbour, etc. So, it's clear to me that BoS's criteria did not allow for Mrs K to sell to her son after 1 November 2022.

However, it appears it was willing to allow the application agreed by it on 22 November 2022, as the application was made in September 2022, before the change to its criteria. I think that was reasonable in the circumstances, but I think it was also reasonable that it declined the subsequent application based on its new criteria.

Mrs K has pointed to the fact that, between April 2023 and February 2025, BoS took no possession action – suggesting it still considered the negative equity sale application it approved on 22 November 2022 as still active during that time. She says BoS was waiting for a mortgage offer during that time. I've seen no evidence to suggest it's lack of possession action was linked to her negative equity sale application. However, aside from the correspondence sent to Mrs K confirming the application was declined, I've seen BoS' file notes from that time. A note of 12 April 2023 states:

"application for shortfall sale declined... ..letter issued and file closed. negative equity [an internal department] no longer dealing with this account."

On 17 April 2023 Mrs K's solicitor contacted BoS asking if the application could proceed as the purchaser had instructed his solicitor. BoS' notes do suggest that it was considering re-opening the application and that the lack of a mortgage offer was its main concern. But, on 19 April 2023, a note similar to the one quoted above appears, confirming the closure of the file because BoS declined the application. BoS wrote to Mrs K again on 19 April 2023 saying it didn't accept her application. It explained that its decision was due to the buyer not securing a mortgage offer. However, the letter does say:

"If your buyer secures a mortgage offer, please get in contact on the above number to re-open your application."

Mrs K's son contacted BoS on 18 February 2025 to confirm he had been approved for a mortgage. That was over a year and a half after BoS' letter dated 19 April 2023, in which it says to *"get in contact on the above number to re-open your application."* So, I've carefully thought about whether it was reasonable for Mrs K to assume from BoS' letter dated 19 April 2023, that her application could be re-opened at any time in the future. And I've carefully thought about whether it would be reasonable to hold BoS to the literal interpretation of that letter.

Firstly, BoS' letter doesn't say there is a time limit for Mrs K to get back in touch to re-open her application. Ideally, for absolute clarity, I think that letter should have confirmed a deadline. However, given that the application that BoS accepted had a time limit, albeit that it extended its deadline at her request, I think Mrs K ought to have known that the application couldn't be re-opened at any time in the future. I think it was reasonable for her to assume from the letter dated 19 April 2023 that BoS may have re-opened her application if her purchaser was in a position to proceed within three months.

I also think, more generally, that it's reasonable, after time has passed, for any such application to be reviewed subject to any new circumstances of the applicant or any new criteria a lender might have introduced. While it's difficult to say exactly what that amount of time should be, in this case I think it was reasonable for BoS to reassess the application fully, applying any new criteria, more than a year and a half after it said the application was closed. So, that means I think, for the purposes of my decision, it's irrelevant whether BoS re-opened the old application or started a new one, because I think it was reasonable, given the time that had elapsed, for it to fully reassess.

In this case, BoS applied its criteria relating to the sale of Mrs K's property to her son. And as it no longer allowed a negative equity sale to a person with a known connection to the seller, it declined her application. I think that was reasonable in all the circumstances. And I think, given the time that had elapsed, Mrs K should have checked that her application could still proceed before her son committed to any new expense in relation to the proposed purchase. So, I don't think it would be reasonable to ask BoS to reimburse either her or her son for any costs they may have incurred. I would note in any event that, I'm unable to make any award to Mrs K's son as he isn't the complainant in this case.

In summary, I don't think BoS has declined Mrs K's applications for a negative equity sale unreasonably and I don't think it should reimburse any related costs she or her son has incurred.

My final decision

My final decision is I don't uphold Mrs K's complaint about Bank of Scotland plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 26 September 2025.

Gavin Cook
Ombudsman