

The complaint

This complaint is about three unregulated mortgages that Mr C took out in 2008, with Bank of Scotland plc trading as Birmingham Midshires (BM). The complaint originates from Mr C's acquisition of three buy-to-let (BTL) properties. There are several strands to Mr C's complaint, the key ones being the valuations of the properties in 2008 and the liability he is now facing for the shortfall debts following the recent sales of the properties.

What happened

The mortgages started in 2008; Mr C took them out through a third-party intermediary I'll refer to as M. In 2009, Mr C complained to BM that the properties had been over-valued; BM rejected the complaint, pointing out that the valuer had been chosen and instructed by M. It gave Mr C six months to refer the complaint to this service. He did so in 2023, and in January 2024 an ombudsman colleague ruled the case as being out of our jurisdiction because Mr C had referred it to us too late under our rules.

In 2024, with arrears having accrued on the mortgages, Mr C signed shortfall sale agreements with BM; this paved the way for the properties be sold for less than the amounts owed on the respective mortgages. But it also generated a succession of complaints about how that process was conducted. BM issued various final responses between August and November 2024, addressing matters which I summarise as follows:

- delay in approving an extension to the completion date for the sale of property 2;
- poor service from the negative equity team in relation to property 1;
- sending a field agent to property 2;
- holding Mr C liable for the three shortfalls.

Mr C brought this complaint to us in June 2025. The case is with me now because our Investigator didn't recommend the complaint be upheld.

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.

Mr C has said that we should revisit the decision of my ombudsman colleague from January 2024. He submitted, under cover of an email dated 12 October 2025, what he says is materially new evidence in the form of retrospective valuations of the properties. However, these retrospective valuations are clearly not materially new evidence, as they were conducted in 2023 and included in the case file reviewed by my fellow ombudsman.

Delay in approving an extension to the completion date for the sale of property 2

BM agreed to extend the completion date the day after the request was made; that doesn't seem unreasonably or excessively slow to me. In any event, the available evidence doesn't point to the extension being needed. Either way, that's not something I'd consider introduced unfairness to the relationship between Mr C and BM.

Poor service from the negative equity team in relation to property 1

BM admits that two different departments issued contradictory letters in response to a request for a reduction in the selling price (the reduction was agreed). That's unfortunate and clearly should not have happened but whilst irritating and irksome to Mr C, I'm not persuaded it hindered the sale or caused Mr C any harm, or that it caused the relationship between him and BM to become unfair. BM has offered Mr C what I consider to be a fair sum in compensation for what is, in effect, the 'nuisance value' of the error.

Sending a field agent to property 2

Again, BM has admitted this was unnecessary, when it had already agreed a hold on recovery action. As with the above error, it's not something I consider brought unfairness to the relationship between BM and Mr C, and BM has offered what I consider fair compensation for the upset.

Holding Mr C liable for the three shortfalls

The enforceability of the debts is a matter for a court, not for this service. But I can consider generally whether it is unfair of BM to expect Mr C to repay the shortfalls. Having considered everything that both parties have said and provided, I'm not persuaded it is unfair. I'll explain why.

Firstly, Mr C signed the shortfall agreement knowing that by doing so, he was accepting that he would remain liable for the shortfalls. I note Mr C felt he was pressured to do that, and I can understand him feeling that way. But it seems to me that any pressure he felt arose from the circumstances generally rather than from anything that BM did. All of the evidence points to Mr C's BTL venture being in a bad place, with little room for manoeuvre on his part. The mortgages were unaffordable, and there was little in the way of substantive evidence of a viable plan to recover the situation, even if interest rates were to fall.

It looks to me like agreed shortfall sales was the 'least worst' option for Mr C. BM didn't have to allow more time for him to recover the situation if it didn't have confidence in his capacity to do so. In the absence of the agreed shortfall sales, the only option then left would have been for BM to enforce its security and sell the properties in possession. Such a course of action would in all likelihood have resulted in much higher costs, possibly lower sale prices and significantly bigger shortfalls, for which Mr C would still then have been liable.

Putting all of the above together, I can't find that BM's handling of the shortfall sales created a relationship between Mr C and BM that is currently unfair. Nor am I persuaded that BM is treating Mr C unfairly by seeking to recover the outstanding debts from him following the agreed shortfall sales.

My final decision

My final decision is that I do not uphold this complaint or make any order or award against Bank of Scotland plc trading as Birmingham Midshires.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 March 2026.

Jeff Parrington

Ombudsman