

The complaint

Miss B and Mr K complain that Bank of Scotland Plc trading as Birmingham Midshires has not treated them fairly in respect of their buy-to-let mortgages.

What happened

This complaint is about five buy-to-let mortgages that Miss and Mr K held with Birmingham Midshires. Four were held on flats in property B – and one was held on a flat in property S.

In 2023, the mortgages became unsustainable – the increase in interest rates meant the rent received was less than the mortgage payments. Miss B and Mr K tried to sell the properties. But although they received offers to buy them, Birmingham Midshires rejected the offers.

Birmingham Midshires appointed receivers to manage the properties and eventually sold the properties at auction.

Miss B and Mr K complain that Birmingham Midshires sold the properties for less than the offers they'd received in 2023. They've also had to pay the receivers fees and interest that could have been avoided had Birmingham Midshires accepted the offers when the market was better,

The investigator said we'd already considered a complaint about the offers to sell the property B flats in 2023. He said we should therefore dismiss that part of the complaint. The investigator also said that Miss B and Mr K had not complained to Birmingham Midshires about the fees, charges and receiver's costs – so they'd need to make that complaint to Birmingham Midshires before we could consider it.

I issued a decision that said we should dismiss the complaint about Birmingham Midshires' decision to reject the offer to sell the properties and that it had overvalued the properties that we had already considered – including whether that created an unfair relationship. But we could consider:

- The valuation and declined negative equity application on the flat in property S.
- Whether all the properties were sold for a fair price.

The investigator did not think those complaints should be upheld. Miss B and Mr K did not accept what the investigator said.

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.

Many of the points that Miss B and Mr K have made relate to Birmingham Midshires decision not to accept their offer to sell the flats in property B in 2023. They consider that the valuers employed by Birmingham Midshires had no idea of the extent of the work needed to bring

the properties into good order and/or the cost of that work. But for the reasons set out in my dismissal decision I am not consider that complaint or any related points as we'd already considered a complaint about that in 2023.

Declined negative equity application for the flat in property S

There was a separate application to sell another property at negative equity that we have not previously considered. Miss B and Mr K said they received verbal offers of between £40,000 and £50,000 for the property but Birmingham Midshires insisted on a minimum valuation of £51,500. Therefore they rejected the offers. Birmingham Midshires went on to instruct receivers and to sell the property for £36,000.

Miss B and Mr K said that if Birmingham Midshires had looked at the sales history for other properties in the same block it would have seen that a number of other properties had been repossessed and sold for low prices at auction. The reason for that was the high service charges that deterred buyers and made the flats very difficult to sell. They could not understand how it was in their best interests to turn down the offers they had only to sell the property for less – leaving them with a shortfall of over £25,000.

I understand why Miss B and Mr K feel they have not been treated fairly. They believe if Birmingham Midshires had let them sell the flat in property S, they would have received a better price than was eventually achieved – and they would have saved the ongoing interest and avoided the receivers and legal costs. But after looking at everything, I don't consider Birmingham Midshires has acted unfairly or unreasonably. I will explain why.

When Birmingham Midshires gave Miss B and Mr K the mortgage it was secured against the property. The terms and conditions that they agreed to said that Birmingham Midshires did not have to release its security unless the mortgage debt was repaid in full. So it was not obliged to agree to a sale where the proceeds would not clear the balance in full.

It was for Birmingham Midshires to decide how much it was prepared to accept if the proposed sale price was not enough to clear the mortgage. It was entitled to rely on the valuation it received when deciding the minimum amount it would accept.

In any event, Miss B and Mr K had only received verbal offers for the property. It does not necessarily follow that the property would actually have sold for that price. They had not exchanged contracts so the buyer might not have proceeded or offered a lower amount for a number of reasons, for example if a survey picked up issues with the property or they changed their mind. So even if Birmingham Midshires had not acted fairly in declining the application to sell in negative equity, I do not have enough evidence to support that the property would actually have sold for the amount offered. So they may well have ended up in the same position anyway.

Sale of properties.

Once Birmingham Midshires had possession of the properties it took the steps I would usually expect to see. It had a valuation carried out by an independent suitably qualified surveyor and it had appraisals carried out by an estate agents or auction houses. The steps taken by Birmingham Midshires on each of the properties depended on the information it had.

For three of the properties Birmingham Midshires advertised them on the open market in line with the valuations it had received. When the properties did not sell – even after the asking price was reduced – they were revalued and then entered into auction and sold.

Birmingham Midshires should balance achieving the best possible price against the length of time taken to sell the property. In the circumstances, it was reasonable for Birmingham Midshires to take the steps it did. It acted in line with the independent advice it had been given and marketed the properties on the open market. In view of the length of time without any interest it was reasonable for Birmingham Midshires to have up to date valuations carried out and then to sell at auction.

For the other two properties, Birmingham Midshires put them straight into auction on the advice of the surveyors. Based on the information it had about the condition of the properties and other issues, it was reasonable for it to conclude that an auction was the most realistic way to sell these properties.

Overall, I am satisfied that Birmingham Midshires has acted reasonably once it had possession of the properties and that it took reasonable steps to sell the properties for the best possible prices.

I am sorry to hear about the very significant impact of that on Miss B and Mr K. They think Birmingham Midshires has not acted in their best interests and, with the benefit of hindsight, if it had listened to them, they would have been in a better position overall. I've explained why I won't be reconsidering the part of their complaint we'd already looked at. But on the part I am considering, the evidence supports that the decisions Birmingham Midshires made were reasonable based on the information it had.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Mr K to accept or reject my decision before 20 May 2026.

Ken Rose
Ombudsman