

The complaint

Mrs P's complaint about Bank of Scotland plc (BoS) relates to BoS declining to agree to postpone the date set for her eviction.

What happened

Mrs P has a mortgage with BoS which fell into arrears in 2012. It has been increasing ever since. BoS commenced possession proceedings and a Court Order was granted for possession in December 2019. Thereafter there were various communications and arrangements made between BoS and Mrs P, but ultimately a date was set for 20 June 2023 to evict Mrs P. Shortly before that date, Mrs P asked BoS if they would grant her a further four weeks grace so that she could put in place alternative funding. BoS refused and so Mrs P brought a complaint directly to this service.

Our investigator went through the history to Mrs P's mortgage account, noting that the mortgage balance was in excess of £2 million pounds, the arrears were just over £692,000 and the last payment made to the account had been in October 2019. Further, that BoS had made successive agreements with Mrs P for her to redeem the mortgage, with the most recent agreement being for a reduced amount of £1 million.

Our investigator contacted BoS, and they agreed to halt the eviction whilst this service considered her complaint, although they did not think this was in Mrs P's best interests. BoS believe the mortgage is unaffordable for Mrs P and that it has shown considerable forbearance over a number of years having agreed to a number of arrangements, allowed time for refinancing, allowed time for third party litigation to be resolved, and for complaints to be made and investigated.

Our investigator issued her view on 18 July and thought BoS had acted fairly and had given Mrs P sufficient time to repay her mortgage.

On 21 July Mrs P obtained an agreement in principle for lending, subject to underwriting checks which she hoped would be in place by the end of August. Our investigator approached BoS to ask if they would allow further time to the end of August, but they declined to do so.

On 2 August Mrs P said she was working on two further proposals, the first being to pay £800,000 within three weeks or to pay £700,000 immediately and for BoS to take a second charge for £300,000 for one year. Our investigator put that to BoS but again they declined.

Mrs P asked for the complaint to be passed to an Ombudsman for a final 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.

My summary of what happened is brief and I know the parties went into a lot more detail. I'm going to focus on what I think are the key issues. Our rules allow me to do this, and it reflects the nature of our service as an informal alternative to the courts. So, if there's something I've not mentioned, it isn't because I've ignored it, it's because I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

I've taken account of both sides' views and I've looked at the issues raised and considered all the available evidence. I have taken into account that Mrs P is caring for her daughter who has a number of serious health conditions, and I further note that she has also sadly lost her husband. I understand that Mrs P is desperately trying not to lose her home and she has made various enquiries with other lenders and come to a number of arrangements with BoS to try to avoid that.

I can see that BoS have allowed a significant period of time for Mrs P to make alternative arrangements, and further that they have offered to accept a vastly reduced amount in settlement of the mortgage debt. It is clear to me that BoS have therefore extended considerable latitude towards Mrs P as I would expect, and I feel that in doing so over a lengthy period of time it has acted fairly and reasonably towards her.

The nub of this complaint, however, is that Mrs P complains BoS didn't agree to postpone the eviction date set for 20 June 2023. Their decision has to be set against all which preceded that date, and it is impossible to ignore that the arrears on Mrs P's account had been steadily increasing since 2012. The arrears are now considerable.

The original order for possession was made in December 2019 and so there has been a period of two and a half years since that date for Mrs P to find alternative arrangements. The eviction date has already been postponed since June, and so, at the point of being asked to postpone the eviction for a further four weeks, I can't say BoS acted unfairly. Eventually a decision has to be made that further time cannot be granted, and based upon what BoS knew at that time, and in the absence of any firm offer of funding for Mrs P, I can't say BoS' decision was wrong. BoS have worked over an extended period with Mrs P to help her and have done so taking into account all her personal circumstances.

So, although Mrs P will probably be disappointed with my decision, but I can't say BoS has acted unfairly or unreasonably here and I'm not upholding this complaint.

My final decision

For the reasons set out above I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 26 September 2023.

Jonathan Willis
Ombudsman