

## **The complaint**

The estate of Mrs B complains that Aviva Life Services UK Limited mis-sold an equity release mortgage to Mr and Mrs B.

## **What happened**

In 2008, Mr and Mrs B received advice from Norwich Union Life Services Ltd to take an equity release mortgage. That business is now part of Aviva Life Services UK Ltd – I'll refer to Aviva in this decision.

Both Mr and Mrs B have passed away. The complaint is brought by Mrs B's estate. They said that the equity release mortgage was mis-sold as it was not properly explained that interest would be compounded or the impact of that on the loan balance.

The investigator did not consider the complaint should be upheld.

Mrs B's estate did not accept what the investigator said. They made a number of points, including:

- The terms of the equity release mortgage required independent financial advice to be taken. But the advice from Aviva was not independent. This was not brought to Mr and Mrs B's attention – and they were vulnerable at the time in question.
- The solicitor produced Mr and Mrs B's wills at the same time – there is no connection to the equity release mortgage in that.
- Going through Mr and Mrs B's papers, the estate could not find any statements or letters from Aviva showing interest accruing.
- Aviva has not recorded the address correctly.

## **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.

Our rules set out time limits that I would usually have to apply and it is likely this complaint was brought outside those time limits. But Aviva has consented to us considering the complaint, so I am able to look into it.

We have a copy of the fact find completed by Aviva. I consider it more likely than not that it was completed at the time in question and reflects Mr and Mrs B's needs and circumstances at the time. It shows that their total monthly outgoing equalled their income and that they had around £3,000 in savings. It said that Mr and Mrs B wanted a new kitchen, a new car, a holiday and an additional amount to draw down in future.

The recommendation letter sets out that Mr and Mrs B did not want to consider other options to raise money – and it's not clear what else they could have done to raise the money they wanted, bearing in mind the evidence shows they did not want to move house or make payments towards the debt. I can't see any other way that Mr and Mrs B could have met their objectives to raise around £40,000 with a further amount available for drawdown. So I think it was reasonable for Aviva to recommend an equity release mortgage to Mr and Mrs

B.

Aviva was also required to give Mr and Mrs B clear, fair and not misleading information about the risks and benefits of the equity release mortgage. The mortgage offer includes a clear illustration of how interest is added to the equity release mortgage and how that increases the balance of the mortgage over its term. This was an important document and there was a reasonable expectation that Mr and Mrs B would read it. I consider that is sufficient to show that Aviva gave Mr and Mrs enough information to understand how interest was applied.

Mrs B's estate said that there was a requirement for the person giving mortgage advice to be independent. I can't see any such requirement in the terms of the mortgage or in the relevant rules. But in any case, I consider that the advice was reasonable – and in my view it is in line with what the relevant rules required at the time in question – so it would not make any difference to the outcome here.

The estate points out that the brochure said that “*any financial advice given by Norwich Union financial advisors will only relate to the products sold or marketed by the Norwich Union Group.*” But that is what happened – a Norwich Union adviser recommended a Norwich Union Group equity release mortgage. As I explained above, Aviva is the successor firm to Norwich Union.

There was a requirement for Mr and Mrs B to obtain independent legal advice. We have a letter from a solicitor to Aviva showing that they did receive such advice. It was reasonable for Aviva to consider they'd received independent legal advice. The solicitor was not giving financial advice – that was solely Aviva's responsibility.

I note the solicitor refers to the Aviva adviser as “the Lifetime Mortgage Provider's representative/Independent Legal Adviser”. That appears to be an error – Aviva were not giving independent legal advice. But Aviva is not responsible for that error. And again, it makes no difference to my finding that the advice was reasonable.

I consider it was fair and reasonable for Aviva to consider that an equity release mortgage was suitable for Mr and Mrs B – and it gave an adequate explanation of how interest would be applied.

There is a minor difference between the address on the statements produced by Aviva and the Land Registry's register of title – although it does not follow that the postal address is incorrect. I'm not sure that is sufficient to say that Mr and Mrs B would not have received the statements. But in any event, whether Mr and Mrs B received statements or not, it doesn't follow the advice was unreasonable.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs B to accept or reject my decision before 16 November 2023.

Ken Rose  
**Ombudsman**