DRN-4261574

Financial Ombudsman Service

The complaint

Mr H's complaint is that he was given unsuitable advice by Unbiased Financial Group LLP in relation to an equity release mortgage. Mr H says that he should have been advised to take out a cash reserve mortgage rather than a lump sum product. Mr H would like Unbiased to compensate him for his financial losses on redeeming the mortgage.

What happened

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr H being identified. So for these reasons, I will instead concentrate on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Briefly what happened is as follows. Mr H first took advice about equity release with Unbiased in 2019 but didn't go ahead at the time. In 2022 Mr H took advice from Unbiased again, following which he took out an equity release mortgage with a business I will refer to as CL. He borrowed £279,500 in a lump sum, at a fixed interest rate of 6.4%.

The intention, as discussed with Unbiased, was that Mr H would use about £75,000 for home improvements and emergency funds, and invest the balance in order to provide him with additional income of £15,000 per annum. (Unbiased also provided investment advice for the balance, which Mr H ultimately didn't go ahead with, describing it as *"sketchy".*)

As is common with an equity release mortgage, no monthly repayments are due; instead interest rolls up over the term of the mortgage. Mr H took independent legal advice before completing the mortgage on 16 November 2022.

Almost immediately afterwards Mr H complained that the product wasn't suitable. He said he'd received CL's brochure which referred to a cash reserve mortgage, which he thought would have been more suitable for him – but Unbiased had never mentioned this.

Unbiased didn't uphold the complaint. It said that a cash reserve would only have allowed Mr H to borrow £169,000. After the £75,000 earmarked by Mr H was deducted, if Mr H spent £15,000 a year, he'd have run out of funds within six years.

In March 2023 Mr H redeemed the equity release mortgage, paying an early repayment charge (ERC) of just under £14,000. He complained to our service that the advice he'd been given was unsuitable and that he'd never been told about the cash reserve option, which he thought would have been more suitable for his needs. He also complained about the *"sketchy"* investment advice.

An investigator looked at what had happened but didn't uphold the complaint. He was satisfied that the recommendation for the lump sum was suitable for Mr H's needs, and that a cash reserve would not have been appropriate in the circumstances. The investigator also found nothing wrong with the investment that Unbiased had recommended, but noted that Mr H hadn't gone ahead with it in any event.

Mr H asked for an ombudsman to review the complaint. He reiterated that it should have been obvious that the cash reserve would save him interest, as well as commissions on proposed investments. Mr H also says that Unbiased should refund the ERC as he considers this to be a loss arising from the *"negligent"* advice he was given.

Mr H assessed his financial losses at £19,949.72, and wanted further *"damages"* to be assessed. Mr H also said that he was claiming £5,000 for distress and inconvenience.

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.

The contemporaneous documents recorded that Mr H's primary need was to generate stable income over a sustained period of time, and so the recommendation was for a lump sum for investment purposes in order to supplement Mr H's pension income with an additional £15,000 per annum, generated from the investment as well as small withdrawals over time.

I'm satisfied that the only way this level of income could have been achieved over a sustained term with would be by way of a lump sum drawdown, invested as suggested. Generally, across equity release providers, where borrowers want a cash reserve, the allowed loan-to-value ratio (LTV) and initial drawdown are much lower than for a lump sum drawdown (and are also dependent on the borrower's age and the value of the property). Indeed, that was the case with CL, which would only have allowed a 26% LTV for a cash reserve mortgage, rather than the 43% LTV for the lump sum drawdown Mr H took out.

In addition, with a cash reserve mortgage, there is no guarantee that the lender would allow any future withdrawals and in any event, if agreed, they would be at the prevailing rate of interest, not that of the original drawdown. Given this, and noting that Mr H specifically needed the stability of generating income over a period of time, I'm not persuaded Unbiased should have advised Mr H to take out a cash reserve mortgage.

If Mr H had taken the maximum cash reserve and used the funds to supplement his income, he'd have run out of money after six years, with no guarantee of any future borrowing. I would have considered *that* to have been unsuitable advice, given that Mr H needed to generate income over a much longer term.

Because a cash reserve mortgage would not have met Mr H's needs (and would therefore have been unsuitable), I would not have expected Unbiased to advise Mr H about it. Unbiased was asked by Mr H to advise on the most suitable product, which it did. I can see that Unbiased considered other providers, but CL was able to release the maximum amount that Mr H needed.

It is, of course, is correct that the higher lump sum resulted in additional interest than if Mr H had taken the lower amount of £169,000 as a cash reserve. But that has to be balanced against the investment advice to generate long-term income for Mr H. The comprehensive and detailed investment recommendation was for a "*cautious"* portfolio, with regulated investment businesses. I therefore don't consider it to be *"sketchy",* as Mr H has suggested. Ultimately Mr H didn't go ahead with the investment and so has suffered no loss as a result of the recommendation.

In all the circumstances, I am satisfied the advice given by Unbiased was suitable. This means that I am not upholding the complaint.

I appreciate Mr H incurred expenses when he decided, after a very short time, that he didn't want the CL mortgage any more. But I can't hold Unbiased responsible for Mr H's decision to redeem the mortgage so soon after he'd taken it out, or for the cost to Mr H of doing so.

My final decision

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

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 October 2023.

Jan O'Leary
Ombudsman