

The complaint

This complaint's about an equity release mortgage that Mrs L applied for with more 2 life Ltd (M2L) in 2022. Her complaint is that delays on the part of M2L caused the mortgage offer to expire before she could complete on her new home purchase. M2L issued a new offer but at a much higher interest rate, which she considered unfair and so didn't proceed with the purchase and mortgage. Instead, on selling her existing home, Mrs L moved into temporary accommodation, and only recently bought a new permanent home, without a mortgage.

What happened

By way of a provisional decision dated 11 October 2023, I set out my provisional conclusions on this complaint. The following is an extract from the provisional decision.

"The broad circumstances of this complaint are known to Mrs L and M2L. I'm also aware that the investigator issued a comprehensive response to the complaint, which has been shared with all parties, and so I don't need to repeat the details here. Also, it's not a case where I have to decide fault; M2L has accepted its contribution to the house purchase and mortgage being aborted. So all I have to decide is how the complaint should fairly be resolved.

Our decisions are published, and it's important that I don't include any information that might result in Mrs L being identified. Instead I'll focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

Our investigator recommended M2L pay Mrs L £1,500 compensation for time, trouble and upset. M2L: agreed to pay this; however, there was a second component to the investigator's recommendation. That was that, if Mrs L were to apply for another equity release mortgage during 2023, M2L should grant the mortgage at the same rate it had offered the original, aborted, mortgage. M2L has objected to that, so the case has come to me to review.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'll deal first with the uncontested component of the recommended award. Assessing fair compensation for people's time trouble and upset isn't an exact science; it comes down to perception; every situation is different and everything has its own context. Even in the best-ordered situation, some things can or will go wrong in such a complex transaction as a house purchase, and some degree of stress and inconvenience is to be expected.

Taking into consideration everything that both parties have said and provided, and mindful of our general approach. I consider that the £1,500 our investigator recommended represents fair and reasonable compensation for M2L's shortcomings in this case.

The issue of whether and on what terms M2L must lend to Mrs L if she ask it to is more complex. As a general rule, we take the view that lending decisions are matters for lenders' commercial discretion which, for the most part, we won't interfere with. It's only in the most exceptional of circumstances that we would depart from that starting position, and I'm not persuaded I should do so here. I'll explain why.

First of all, M2L has made the rather pertinent point about the need for Mrs L to obtain fresh advice from a suitably-qualified intermediary, not least to check whether a mortgage with M2L would be the most suitable solution for her in what is likely to be a new set of circumstances. That's particularly apt because Mrs L's circumstances have changed whilst the complaint has been with us. She's no longer looking for a property to buy; she has now bought one, as I understand it, on a shared ownership basis. So it's possible she no longer needs or wants a mortgage. Even if she does, any mortgage she might take out in future would need to be from a lender that provides equity release lifetime mortgages on shared ownership properties.

I don't know if M2L lends on shared ownership, and for the purpose of this decision I don't need to. I make the observation to reinforce the point that it would not be appropriate for me to order a business to provide a mortgage that might not be the most suitable option for Mrs L, or indeed one that, all other things being equal, might be outside M2L's lending criteria in any event.

So, aside from any other objections M2L may have, the simple fact is that the situation has moved on since the investigator made his recommendation, and a different solution is required. With that in mind, I think M2L should agree to reimburse the cost of Mrs L seeking advice from an independent financial advisor (IFA) on applying for a lifetime mortgage in the future, up to a maximum of £1,000. That reimbursement should be payable on production of a receipted invoice from the IFA detailing the nature of the advice given.

I don't think it would be fair to make this an open-ended commitment. I think six months would be a reasonable period of time for Mrs L to decide whether she still wants a mortgage, and arrange the necessary advice."

Both parties responded to the provisional decision. M2L accepted it without further comment. Mrs L did not; she queried why there no consideration had been given to her out-of-pocket expenses. She also questioned the point of seeking advice about a future mortgage as she is now settled in her new home and not intending to move again.

Based on Mrs L's further comments, I issued a second provisional decision, in which I made the following additional findings.

"I'll start with an apology to Mrs L. From my reading of the responses to the investigator's view of the case, I had interpreted Mrs L's position as being that she was accepting of the proposed payment of £1,500 rather than continuing with her claim for out-of-pocket expenses. I realise on further reflection that was a mistake on my part.

Mrs L's claim is for the costs she incurred as a result of moving out of her old home without having a new permanent home to move into for several months. These include accommodation and storage costs, as one might expect, but also loss of benefits and other ancillary items that our investigator didn't think would have been reasonably foreseeable by M2L. I have reached a similar conclusion on that point, but even on those costs that certainly would have been foreseeable, I'm not persuaded M2L should have to reimburse them.

Mrs L says her costs are in the region of £10,000 before netting off the interest she would have been paying M2L on the mortgage if it had gone ahead. Bearing in mind the lifetime nature of the mortgage, I think Mrs L is under-estimating how quickly interest would accrue to the mortgage. It would take less than three years for the mortgage interest to exceed £10,000. I appreciate this is a delicate subject, but based on life expectancy information published by the Office of National Statistics, the greater likelihood is that Mrs L would have held the mortgage long enough for the accrued interest to exceed the value of her claim.

As for the suggestion that M2L should meet the cost of Mrs L obtaining advice on another mortgage, that was not predicated on the assumption that she would wish to move again. Rather, it was in case Mrs L decided she would, after a period of reflection, decided she would like to seek a mortgage on the new home she now occupies.”

Both parties responded to the second provisional decision. M2L accepted it without further comment. Mrs L did not; she said, in summary:

- She sold up and moved out of her previous house before applying for the lifetime mortgage;
- Her intention was always to make regular interest payments on the lifetime mortgage rather than allow it to accrue. The reason she rejected the second offer was that the higher rate would have made the monthly payment unfordable.
- Because she'd be paying the interest rather than having it accrue to the mortgage, the life expectancy issue was irrelevant. Nine months' worth of interest is around £4,400 whereas her out-of-pocket costs were approximately £9,500. She is due the difference.
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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.

Having considered afresh everything that both parties have said and provided, I'm persuaded that the remedy I've proposed is fair in all the circumstances.

I appreciate Mrs L's intention was to pay the monthly interest rather than allow it to accrue. But whilst that takes the compounding effect out of the equation, it still means Mrs L is saving by not having a mortgage on which to pay interest. Also, the interest saved is not just the nine months' worth that Mrs L has factored into her own calculation.

I have to consider how long Mrs L would have been paying interest on the mortgage if she had taken it out, and that is why life-expectancy is directly relevant. I said in my second provisional decision that it would take less than three years for the interest to exceed the claim value. If I take her own figures on face value, Mrs L would actually have needed to hold the mortgage for only 20 months before the total interest paid on it exceeded the £9,500 of out-of-pocket expenses she is claiming back.

My final decision

My final decision is that I uphold this complaint, by ordering more 2 life Ltd to do the following:

- On production of a receipted invoice within six months of this complaint being settled, reimburse the cost of Mrs L seeking advice from an IFA on applying for a lifetime mortgage in the future, up to a maximum of £1,000; and
- pay Mrs L £1,500 compensation for her time, trouble and upset.

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 Mrs L to accept or reject my decision before 11 December 2023.

Jeff Parrington

Ombudsman