

The complaint

This complaint is about an application Mrs H made to Aviva Equity Release UK Limited for a further advance on her lifetime mortgage. The application was declined, and Mrs H believes this is unfair.

What happened

The broad circumstances of this complaint are known to Mrs H and Aviva I'm also aware that the investigator issued a response to the complaint, which has been shared with all parties, and so I don't need to repeat all the details here.

Our decisions are published, and it's important that I don't include any information that might result in Mrs H being identified. Instead I'll give a brief summary of what led to the complaint, rounding the figures where appropriate, and then 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.

Mrs H has had the lifetime mortgage since 2006. In 2018, a further advance application was initially declined, but then granted on appeal. Mrs H made another further advance application in 2022, which was also declined, and this time the appeal wasn't successful.

When Mrs H complained to Aviva, it offered her £100 compensation for a lack of clear information over the reason(s) for declining to lend. But the decision not to lend stood, and so Mrs H brought the complaint to us. Our investigator didn't recommend the complaint be upheld, so it has been passed to me to review.

What I've decided – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

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

Having done so, what follows are my conclusions and the reasons for them.

No one is entitled to borrow money; and even when they've borrowed before, they're not automatically entitled to borrow again. But a lender must treat customers fairly. In the context of an application for a further advance, that means assessing it in accordance with the bank's lending criteria and being mindful of what mortgage regulation requires of it. Lenders'

criteria evolve over time, to reflect changes in the regulatory and economic climate, as well as lenders' changing appetite for risk. These criteria are commercially sensitive and not generally made public.

In Mrs H's case, Aviva decided not to grant the further advance because the valuation report identified that the property's construction – almost 40% of the external walls are single-skinned – didn't meet its current lending criteria on acceptable security. The valuation also reported a second issue, to do with flood protection, that was later noted as a mistake and withdrawn on review.

To be clear, Aviva didn't make a mistake when it refused to lend; it was legitimately entitled to do that once the valuation identified the structural issue. Meanwhile, that wasn't Aviva's doing either; it had relied, quite reasonably, on the information provided in the valuation, which was carried out by a qualified third party.

Even the incorrect reference to a second reason for refusal was made in good faith, insofar as it too relied on the content of the valuation. That said, Aviva's responded fairly by clarifying the position once the review process revealed that flood protection wasn't an issue after all, apologising and paying Mrs H £100 compensation.

I've also looked at how Aviva handled the application generally. It received the application from a third party intermediary that was acting for Mrs H. That being the case, it was entirely appropriate that Aviva communicate with the intermediary rather than with Mrs H directly. I'm also persuaded that Aviva dealt with the application in a timely fashion. Only 16 days elapsed between Aviva receiving the application and confirming the decision not to lend after checking things with the valuer.

I've no doubt it was a huge disappointment to Mrs H that Aviva decided not to lend her the money she wanted. But Aviva did all that I'd expect it to in the circumstances. It reviewed the initial decision not to lend, just as it had done in 2018. On that occasion, the review led to a change of outcome, primarily because the purpose of the extra lending was to pay for essential repairs to preserve the structural integrity of the mortgaged property. That wasn't the case in 2022.

My final decision

My final decision is that I don't uphold this complaint or make any order or award against Aviva Equity Release UK Limited.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 2 August 2023.

Jeff Parrington
Ombudsman