

The complaint

Mr S complains that Aviva Life & Pensions Limited overvalued his property allowing it to lend him more via a lifetime mortgage than it otherwise would have.

What happened

Mr S is represented in his complaint by Mr W – his son-in-law. But, for simplicity, I'll refer, throughout my decision, to Mr S as if all statements made by the complainant have come directly from him.

Mr S and the late Mrs S took out a lifetime mortgage with Aviva, via a broker, in 2009. Mr S says he's received a copy of the lender's version of the valuation report. And he says that version contains an additional page with fabricated house sales which were used to reach a valuation on his own property. Mr S also says the sale of the product happened just after the financial crash so property values, including his, were falling at that time. Mr S complained to Aviva.

In its final response letter dated 27 February 2023, Aviva said it is unable to comment on the accuracy of the property value at the time due to the amount of time that has elapsed since then. It also said that if Mr and Mrs S were unhappy with the valuation, they could have challenged it at the time and they were under no obligation at that time to continue with their application for the lifetime mortgage. Aviva also said that the lifetime mortgage also has a no negative equity guarantee, which means, should the expected sale price be less than the amount owed, Aviva would not seek to recover the difference.

Dissatisfied with Aviva's response, Mr S asked us to consider his complaint. Our investigator didn't think Aviva had done anything wrong. She said she thought it was reasonable for Aviva to rely on the information provided by the valuer with regard to the valuation of the property. Mr S didn't agree. He said he thinks Aviva had a duty to make sure all documents it relied on were correct and in order and as Aviva didn't do that, it lent incorrectly. He said it's irrelevant whether Aviva knew that or not.

As Mr S didn't agree with our investigator his complaint has been passed to me for a 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.

To decide this complaint, I've thought about whether the evidence available indicates Aviva overvalued Mr and Mrs S's property at the time it sold them their lifetime mortgage.

Mr S says the house was hugely overvalued and the valuation was based on fabricated house sales noted on the valuation report from the time of the lifetime mortgage sale. And he says the valuation was based on property prices before the financial crash.

I've considered the copy of the valuation report provided to us – the lender's copy. Firstly, I've noted that the valuation states that the demand and value of similar properties was falling. I've also noted that the valuer thought the property was worth less than that believed by Mr S at the time. And I've seen the page Mr S refers to about comparable properties.

On page five of the valuation report is confirmation of the surveyor's details. I can see from those details that the surveyor worked for a company of surveyors and that they were a member of the Royal Institute of Chartered Surveyors (RICS). I'm satisfied from those details that the surveyor wasn't an employee of Aviva. I haven't seen evidence that the surveyor was asked to value the property at a specific level. The only indication of what valuation may have been expected was the indication of the value given by Mr and Mrs S. The surveyor chose to value the property lower than that figure. So, I haven't seen any indication that he inflated the value so that Aviva could lend Mr and Mrs S more than it should have done.

In any event, the surveying of property is not an activity covered by us. And the actions of the surveyor would not be considered in a complaint about the lender. The surveyor in this instance was independent of Aviva and is a member of RICS. So, any complaint about the actions of the surveyor would need to be addressed to RICS.

It's usual for a lender to appoint a surveyor to provide a valuation on a property that is to be used as security for a proposed loan. In this case, Aviva appointed a surveyor – likely to be the company rather than the individual – and the company instructed an employee who was a member of RICS, indicating they were qualified to carry out such work. Irrespective of the actual accuracy of the valuation – a matter I'm not qualified or have the power to decide – I think Aviva were entitled to rely on the valuation provided by the surveyor, given that they were independent and qualified.

More broadly, I would comment that I think it's unlikely that a lender would seek to inflate the value of a property so that it could increase the amount of a loan. The property is the security for the lender against the chance the repayment obligations are not met. A lender has a set amount of risk it is prepared to take at any given time. The limits it sets with regard to the amount it is prepared to lend against the value of a specific property is a reflection of that 'appetite' for risk for individual lending. So, it isn't in a lender's interest to inflate the value of a property, especially in this case because of the mortgage's no negative equity guarantee. I say that because, where a property's value is inflated, it's more likely that the amount owed will reach a point that it is greater than the value of the property, and that point will be reached sooner. That means the lender would stand a greater chance of not being able to collect all the money that would otherwise be owed when the mortgage is redeemed.

Overall, I haven't seen any evidence that indicates Aviva inflated the value of Mr and Mrs S's property. And we don't have the power to consider the actions of the surveyor. So, I don't uphold Mr S's complaint.

My final decision

My final decision is I don't uphold Mr S's complaint about Aviva Life & Pensions Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 October 2023.

Gavin Cook
Ombudsman