

## The complaint

Mrs C's complaint is about an equity release mortgage, originally taken out in 2004 on the advice of an independent financial adviser with a lender I will call N, transferred to a different business in March 2012 and transferred again in February 2018 to Pearl Group Management Services Limited, against which this complaint has been brought.

Mrs C wants Pearl to recognise that it should have offered Mrs C a lower interest rate. Because she has now redeemed the mortgage, to settle the complaint Mrs C wants a substantial refund of the interest charged over the lifetime of the loan.

The complaint has been brought on Mrs C's behalf by her son, but for clarity I will refer to Mrs C throughout.

## What happened

In 2004 Mrs C, and her husband, Mr C, who has since passed away, took out an equity release mortgage, after taking advice from their own independent financial adviser. They borrowed £60,000 at a fixed interest rate of 6.7% for the lifetime of the loan. In May 2007 Mr and Mrs C borrowed an additional £7,377 at a fixed rate of 6.59%.

In common with this type of loan, no monthly repayments are due; instead compound interest rolls up into the loan at the rate specified in the contract. Generally, repayment of the loan is only required on the death of the last surviving borrower or if the borrower has to move into full-time nursing care. An early repayment charge may apply if the mortgage is repaid under any other circumstances, depending on the terms of the contract. In this case, there have been no early repayment charges since 2010 for the initial loan and 2012 for the further advance.

I am sorry to note that Mr C passed away in January 2021. It was at this point that Mrs C's son first became aware of the equity release mortgage and raised a complaint with Pearl about it.

The complaint was that the mortgage was mis-sold because the lender failed to recognise Mrs C's vulnerability, that she lacked financial acumen and didn't take steps to ensure she understood the product. Mrs C also says that the interest rate – fixed for the term of the loan – is very high at 6.7%, which has led to the debt increasing from the amount originally borrowed. Mrs C believes Pearl owed her a duty of care to review her account and offer her borrower at lower interest rates.

Pearl didn't uphold the complaint, explaining that the loan had been sold by an independent financial adviser. Pearl said that if Mrs C was unhappy about the sale of the product, or the original lending decision, she would need to contact the financial adviser and the original lender.

Pearl also explained that it was under no duty to review individual customer accounts during the term, as the nature of an equity release mortgage is that it is at a fixed rate for the duration of the loan. Pearl also noted that Mr and Mrs C had, during the course of the loan,

returned the Acknowledgement of Statement form sent out with the annual statements and so would have been aware from those statements that interest rate that was being charged.

Pearl clarified that the mortgage couldn't be ported to another product at a different interest rate. The mortgage has now been redeemed, and Mrs C has taken out a new equity release mortgage with a different provider at a lower interest rate.

Dissatisfied with Pearl's response to her complaint, Mrs C contacted the Financial Ombudsman Service. An investigator looked at the complaint but didn't think it should be upheld.

The investigator explained that the sale of the product and the original lending decision were nothing to do with Pearl, which had only taken ownership of the mortgage in February 2018. The investigator was satisfied that the loan had been administered in line with the contract terms, and that there was no duty for Pearl to review the suitability of the product or to change the interest rate.

Mrs C didn't agree with the investigator's findings and asked for an ombudsman to review the complaint. Some further points have been made, which I summarise:

- It is unacceptable that separate complaints have to be addressed to the broker, original lender and previous lender. Pearl provided papers relating to the mortgage and referred to what had happened at the point of sale, so the sale of the product needs to be considered.
- The advantages to a borrower of a fixed rate only apply if rates rise, and is only really relevant during the period in which there is a tie-in with an early repayment charge.
- A “*decent*” company would have reduced the interest rate and Pearl should have done this when it took over the debt.
- Pearl is akin to a “con man” who charges an extra amount to resurface a driveway.
- It is unfair that Pearl is allowed to exploit vulnerable people and the Financial Ombudsman Service should hold Pearl to account.

### **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 done so, I've reached the same conclusion as the investigator, for largely the same reasons.

Although I appreciate it might be inconvenient for Mrs S to have to bring separate complaints against the broker which sold the product and the original lender, they are separate businesses in their own right. I can only look at this complaint against Pearl in relation to Pearl's ownership of the loan since February 2018. The fact Pearl provided information about what happened at the point of sale – including confirmation that Mr C said he'd discussed the equity release mortgage with his children – doesn't mean Pearl is responsible for addressing a complaint about the sale of the product or the original lending decision.

Consequently, I will make no further comment on those issues as they don't fall within the scope of this complaint.

Pearl took over the loan in February 2018, and administered it in line with the contract terms until it was repaid. Pearl isn't under any duty to review all the equity release mortgages it owns and advise customers if they could get a better deal somewhere else. The interest rate on Mrs C's mortgage was for the lifetime of the loan, which is the industry standard for this type of product. In any event, Pearl doesn't offer financial advice to customers, and so does not have the required regulatory permissions to do this.

Overall, I've found nothing to persuade me that there has been any maladministration by Pearl since it took over the mortgage in February 2018. This means that there is no basis on which it would be fair or reasonable to order Pearl to refund interest legitimately charged in line with the contract terms.

I know this isn't the answer Mrs C and her son were hoping for. In my experience of dealing with equity release cases, I have to say that it is not uncommon for parents to want to keep their finances private from their children. If Mr and Mrs C chose not to discuss this mortgage with their children, that was entirely their prerogative. But I can appreciate that it can come as a shock to family members to discover there is an equity release mortgage in place, particular if, as in this case, it's been running for some time, because it can have an impact on available funds for alternative care for the borrower.

However, that doesn't mean that the contract is unfair, or that there is any basis on which I could find that Pearl has to pay any redress.

### **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 Mrs C to accept or reject my decision before 6 January 2022.

Jan O'Leary  
**Ombudsman**