DRN-4229550

The complaint

Mrs D has complained about a lifetime mortgage application she made through Fluent Lifetime, which is an appointed representative of Fluent Mortgages Limited. She says the interest rate was too high, and the valuation of her property was too low.

Mrs D has been supported in bringing this complaint by Mr F. Any reference to Mrs D should be taken to mean Mr F acting in that capacity where appropriate.

What happened

Mrs D spoke to an adviser with Fluent as she wanted to take a new lifetime mortgage to replace the one she currently had with a lender I'll refer to as X. It was recorded that the outstanding balance with lender X was around £103,000 and she wanted to borrow additional funds to repay a £7,500 credit card debt, £4,500 that she owed her mother, and to give £46,100 to Mr F to repay money he'd spent on some home improvements to the property.

Mrs D said she believed her property was worth £390,000 based on three valuations she'd received from estate agents. She said she didn't want a specific firm of surveyors to be used as she didn't agree with a previous valuation that firm had undertaken. The adviser confirmed that would limit the lenders that would be available as many lenders use that firm for their surveys. The adviser looked at house prices in Mrs D's area and said those were showing a likely value of between £260,000 and £335,000. In terms of the interest rates, the adviser said that if Mrs D wanted to borrow the maximum amount she could, then the interest rate would be higher than her current 4.60%. He said it would likely be in excess of 6%.

The adviser went through some options and said it wouldn't be possible to both raise the additional funds Mrs D wanted, and to also get a lower rate than she was currently on. He said one option was to move the lifetime mortgage like-for-like onto a lower rate, but due to the size of the early repayment charge on the mortgage with lender X (which was around £15,000) it would take many years to recoup that additional cost. Alternatively Mrs D could stay with lender X and see how much extra it was willing to lend to her, or to look at the market and see which lender would offer the best rate for the maximum amount of lending. He said, based on a top end property estimate of £335,000 then the maximum loan amount would be around £160,000, but the rate would be much higher.

Mrs D said she wanted to proceed with the third option of the maximum amount of lending, on the understanding it would be a higher rate of interest. It was agreed the application would be submitted based on a property value of £335,000.

The adviser went through his recommendation in a call on 10 December and issued a suitability report to cover off what had been discussed. It was confirmed the recommendation was based on an estimated property value of £335,000. The adviser recommended Mrs D take out a new lifetime mortgage with lender M and he calculated that the maximum borrowing that would be available, based on a property value of £335,000, would be £160,130 which would repay the existing mortgage, the credit card debt, the money owed to

Mrs D's mother, cover the set-up costs, and leave around £26,670. The adviser said the interest rate would be 5.37%.

The application was submitted to lender M. I understand the surveyor made contact with Mrs D and, as they were part of the firm she wouldn't use, Mrs D wouldn't book the appointment. The application with lender M was cancelled.

Fluent said that only left two possible lenders as the others all used that firm of surveyors, and the only one that would lend the amount Mrs D wanted offered a higher rate of interest than lender M.

On 14 December a new illustration and a new suitability letter were produced. Those were based on a property value of £335,000, a loan amount of £157,450 and an interest rate of 6.20%. An application was submitted to the new lender, who I'll refer to as lender J, on 15 December with a covering note to say that particular firm of surveyors shouldn't be used.

On 22 December Mrs D confirmed the survey for lender J had been carried out by a different firm of surveyors.

On 30 December lender J emailed Fluent. It said it believed Fluent was aware of the significant down valuation of the property and asked if Mrs D still wanted to proceed based on the reduced maximum lending amount.

Fluent responded to lender J on 4 January 2021 to say Mrs D was considering her options. It said she'd had three surveys done on her property and they'd all come in around the same figure so she was deciding what to do. Fluent said, if Mrs D chose to proceed, based on the lower lending amount of £131,600 she would repay her existing mortgage, her credit card, the debt to her mum and pay the set-up fees. It said any residual amount would be paid to Mr F for works he paid for on the property.

Fluent spoke to Mrs D and said the survey had come in at £280,000, and she'd had three valuations now that had come in at around that amount. The adviser said once the existing lifetime mortgage was paid off the maximum loan amount with lender J would leave her a much lower amount which wouldn't pay off what she wanted. Mrs D said she wanted time to think about it and it was agreed she would call back with her decision. Mrs D confirmed later that day that she wanted to proceed.

Following that Fluent emailed lender J to say Mrs D had decided to proceed based on the valuation of £280,000. Unfortunately lender J declined the proposition as it wasn't willing to lend as the funds wouldn't be enough to pay off Mr F and it was concerned if that debt to Mr F remained outstanding then it could give him a financial interest in the property.

The adviser notified Mrs D of that on 5 January and said he was appealing the decision. He said in the meantime he had undertaken some more research and if Mrs D went back to lender M, even with a valuation figure of £285,000 it would lend £136,000 plus a cashback of £4,000. He said that would leave Mrs D £17,700 after paying off lender X. The adviser said that as the only block to using lender M previously was the surveyor issue, there was no reason to now not proceed with that lender. Mrs D said that the valuation wasn't going to change and confirmed she wanted to revert to an application with lender M. The adviser said the rate was 6.31%, and it was agreed the application would be made.

On 6 January a revised illustration and suitability report was issued to Mrs D to revert back to the original recommendation of lender M. The suitability report said:

“After receiving the recommendation made on 10th December 2020 to take a Lifetime Mortgage with [lender M]*, you have stated that you cannot proceed with them as they use* [the firm of surveyors] *for their valuations and, you are currently in dispute with them due to a previous valuation which you did not agree with. As a result you have asked me to source another provider that do not use* [the firm of surveyors]*.*

Following my further recommnedation [sic] *to take a lifetime mortgage with* [lender J] *they have also vaued* [sic] *your property at £280,000 which is the reasoin* [sic] *you were in dispute with* [the firm of surveyors]*. It is evidenmt* [sic] *after having three valuations with three different companies that the property is unlikley* [sic] *to achieve a valuation in excess of £285,000 desipte* [sic] *you believing it is worth £335,000.*

On this basis you have asked me to revert back to the [lender M] *plan initially recommended as this will give you the highest level of release.”*

An application was submitted to lender M based on a property value of £285,000, asking for an advance of £136,230 at an interest rate of 6.31%.

A valuation was undertaken on 11 January 2021 and that gave the property value as £285,000.

An offer was issued on 13 January 2021 for a loan amount of £136,230 with the interest rate fixed at 6.31%.

Mrs D’s solicitor completed the legal paperwork and the mortgage completed on 25 February 2021.

Mrs D raised a complaint with Fluent in July 2022 which it didn’t uphold. Unhappy with Fluent’s response, Mrs D referred her complaint to the Financial Ombudsman Service.

Our Investigator didn’t uphold the complaint. He said Fluent had no influence over the valuation, and it gave reasonable recommendations for Mrs D’s circumstances. He said Fluent discussed a lower rate with Mrs D, but she opted instead to take a higher level of borrowing.

Mrs D didn’t agree and so the case has been passed to me to decide.

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.

Although I’ve read and considered the whole file I’ll keep my comments to what I think is relevant. If I don’t comment on any specific point it’s not because I’ve not considered it but because I don’t think I need to comment on it in order to reach the right outcome.

Mrs D’s complaint falls under two broad categories. She says the interest rate was too high, and the valuation of her property was too low.

<u>The valuation</u>

Mrs D has said:

“The instruction by the Broker to the acting Surveyors Office [firm of surveyors] *was clearly set at £285,000.00 not £390,000.00 which in the best of terms reflects an ...typographical error ... in manner of digit’s...£285,000.00 instead of £390,000.00.”*

But it wasn’t a typographical error, it was the culmination of the discussions held over multiple calls and the fact Mrs D had already had more than one valuation report that gave a figure of around £285,000.

Right from the start the adviser explained that the estate agents’ marketing valuations of £390,000 weren’t supported by the available evidence of the likely value of Mrs D’s property, with him explaining the online estimates showed a likely value of between £260,000 and £335,000. He said that whilst he could see Mrs D had spent a lot of money on the property, it wasn’t structural work that would increase the value.

On 1 December Mrs D agreed that a value of £335,000 would be sufficient so it was left that the adviser would research the market based on that estimated property value. Using that as the estimated property value for an application was then reconfirmed by Mrs D and the adviser in the fact-finding call of 4 December and the recommendation call of 10 December. It was agreed in the recommendation call that the adviser would submit the application to lender M on the basis of an estimated value of £335,000, and that is what happened.

There was a further call after the application had been submitted to lender M in which the adviser said he’d forgotten what Mrs D had said about her issues with the particular firm of surveyors. He said only two lenders didn’t use those surveyors, and only one of those would lend the amount Mrs D required. He said that lender offered a much higher interest rate, and there was a risk that the surveyor might give a similar valuation figure. Mrs D opted to withdraw her application to lender M and proceed with the new lender instead.

The second application, to lender J, was also submitted on the basis of a value of £335,000, and for that application a different firm of surveyors gave a valuation figure of £280,000.

In the call of 5 January the adviser discussed the valuation figure with Mrs D, and Mr F said that the valuation figure wasn’t going to change (that is, from around £280,000 to £285,000) and so Mrs D wanted to revert to an application with lender M on that basis.

So I can see from this that there were multiple conversations with Mrs D about the value of her property. The final application was submitted based on a property value of £285,000 due to the previous survey reports she’d received giving a valuation figure of around that amount, and with her full awareness and agreement.

However, even if it was an error on the part of Fluent, lender M instructed a suitably qualified surveyor (it appointed a member of the Royal Institution of Chartered Surveyors) and neither lender M nor Fluent are responsible for the actions of the surveyor, including the valuation figure they reached. If the surveyor felt the property was worth £335,000 they would have given that as their valuation figure. They didn’t, they gave a valuation figure of £285,000 and Mrs D didn’t appeal that at the time, instead choosing to proceed on that basis.

Mrs D has said the property was subsequently valued at £360,000 around 18 months later, but I can’t take that into account when deciding whether Fluent did anything wrong here. Mrs D had received previous mortgage valuations of around £285,000 and she agreed to submit her final application to lender M on that basis.

I’m satisfied Fluent did nothing wrong here in respect of the property valuation, and I don’t think there is anything more it could have done. Quite simply, Fluent had previously used a value of £335,000 with Mrs D’s agreement, but more than one surveyor said Mrs D’s property wasn't worth that for lending purposes. Having considered everything very carefully I don't uphold this part of the complaint.

<u>The interest rate</u>

Mr F has said:

> *"However, when questioned (speaker phone access) by* [Mrs D] *about the Lifetime Mortgage Interest Rates and the Level of charges,* [the adviser] *stated that the standard rates of interest, then 2.69% - 3.25% in November/December 2020, applied to New Business Applications only, NOT further advances. Clearly this application was not a "further advance" with* [lender M]*. I was witness to this verbal assertion which was not challenged, believing* [the adviser] *was conducting this matter, in* [Mrs D's] *"best interests" at that time.*
>
> *However, this Lifetime Mortgage was an entirely NEW Application with an NEW Lender, whom would or could have applied the rates of interest described above (2.69% - 3.25%) not the rate of interest* [Mrs D] *has her Lifetime Mortgage with* [lender M] *of 6.31%."*

To deal with this point I will go right back to the first call, and that was between the adviser and Mr F on 30 November. In that the adviser said:

> *"All I'm saying* [Mr F] *is, if the client is looking for maximum funds they're not going to get a cheaper rate than they're paying now. The rate might be even higher than they're paying now. Because the more you borrow the higher the rate."*

This was reiterated with Mrs D in the pre-fact-finding call on 1 December in which the adviser said that if Mrs D was looking to borrow additional funds then she wasn't going to get a better rate than her current 4.60% because the more you borrow on a lifetime mortgage, the higher the interest rate is.

That leads me onto the fact-finding call of 1 December. In that call the adviser asked Mrs D whether her priority was to get a lower interest rate or to get the maximum borrowing amount, as she'd previously said she wanted a better rate but was now saying she wanted the maximum borrowing amount. When Mrs D said she wanted both, the adviser again explained she wouldn't be able to get both. He said if she was looking for the maximum loan amount then she was looking at rates in excess of 6%, but if she was looking for a lower extra amount then she might be able to get a lower rate. So he asked Mrs D which was more important to her, the interest rate or the loan amount. The adviser then explained:

> *"If I was just looking at transferring the mortgage from one provider to another I could probably get you about 2.85%. And that would be transferring your existing loan to another provider. However, if you were just going to do that because of the costs involved in paying that loan off to* [lender X] *which is £15,000, and then the new set up fees which would be in the region of about £2,300, even though I can get you a more favourable rate it would take you nine years to break even to get that money back."*

When Mrs D said that if she stayed with lender X she wouldn't be able to get as much money as she needed, the adviser said:

> *"This is what I'm saying about what's the most important. Because if getting a better rate is more important to you then I can help. But if you're looking at getting more money and* [lender X] *won't assist you with that, you've got no choice but to go and move the loan, and you're going to be looking at a higher rate. And I can't avoid that, that's just the way the system works."*

The adviser then emailed the options to Mrs D, which were:

- Option 1 which was to transfer the existing lifetime mortgage to a new provider to get a better rate, but no additional borrowing. He said the new rate would be in the region of 2.85%, but due to the early repayment charge with lender X it would take around nine years to recoup the costs involved.

- Option 2 which was to stay with lender X and see how much extra it would be willing to lend.

- Option 3 which was to look for the maximum amount Mrs D could borrow on the open market, but the rate was likely to be over 6%.

Mrs D said she wanted to proceed with option 3 and that was the basis of all the conversations since then.

Having listened to all the calls very carefully, at no time did the adviser say the lower rates of interest were for new business applications, and the higher ones for further advances, nor was this application submitted as a further advance. Had Mrs D remained with lender X then any additional borrowing would have been a further advance, but both the application to lender J and (both) the applications to lender M were submitted on the basis they were new business.

The broker explained at length on various occasions that if Mrs D wanted to borrow the maximum amount she could then the interest rate would be higher (in excess of 6% was mentioned a few times). Mrs D could only potentially have obtained the lower rate mentioned of 2.85% if she had simply moved the mortgage from lender X to a different provider with no additional borrowing.

The final interest rate of 6.31% was mentioned in the call of 5 January. It was also set out in the revised illustration and a revised suitability letter of 6 January, and the mortgage offer of 13 January. If Mrs D felt that was too high then she had the option to not proceed with it. Having considered everything very carefully I don't uphold this part of the complaint.

My final decision

I don't uphold Mrs D's complaint about Fluent Mortgages Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 8 April 2024.
Julia Meadows
Ombudsman