

The complaint

Mr S complains that Aviva Life & Pensions UK Limited declined his drawdown request on his cash reserve facility attached to his lifetime mortgage.

What happened

In early 2021 Mr S applied for a lifetime mortgage through a broker who I'll refer to as "A". Information and advice regarding the mortgage were given by A. Mr S was advised to borrow £38,189 from Aviva. A reserve facility up to £108,000 was also arranged for Mr S to access in the future if he needed to.

Later that year Mr S contacted Aviva to access the reserve funds. In mid-July he borrowed £20,000 and in Mid-October he borrowed a further £18,000.

In December 2021 Mr S approached Aviva again to borrow a further £20,000. Before Aviva could agree the funds, it asked Mr S to provide more information to evidence the need for the further borrowing and how the previous drawdown funds had been spent.

Upon review of the application in its entirety, Aviva refused the drawdown. It had concerns about the frequency of the drawdowns, their purpose and how the previous funds were spent. As such, it wasn't prepared to lend more. Mr S wasn't happy and raised a complaint about this. He explains that Aviva's lending decision is impacting him financially as he's having to support his family from his own funds which is difficult as a pensioner.

Aviva didn't uphold the complaint. It said that as a responsible lender it had a duty to carry out due diligence and wasn't prepared to change its lending decision.

Unhappy with Aviva's response, Mr S brought his complaint to our service. An investigator looked into things and didn't uphold the complaint. He thought that based on the information available to Aviva, he couldn't say that it acted unreasonably by refusing the further drawdown. Mr S remained unhappy and asked for his case to be decided by an ombudsman.

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.

Mr S accepted this mortgage offer on the basis that Aviva had agreed to make the cash reserve funds available to him at any time. Mr S made Aviva aware from the outset that he would likely be making future drawdowns. Aviva didn't present any objections at the time. So, I can see why Mr S believed these funds would be readily available to him when he needed access.

But the terms and conditions give discretion to Aviva as to its approval of any future drawdowns. Aviva's terms say that it may refuse lending in situations where it has concerns about financial crime or the borrower's health or wellbeing. What I must consider is whether

Aviva has applied its terms fairly in the circumstances.

When Mr S initially applied for the lifetime mortgage in early 2021, the main purpose was to gift a lump sum of £36,000 to his son. The remainder of the loan was used to fund a lasting power of attorney fee and loan set up costs.

Mr S made two further drawdowns totalling £38,000 within the first six months of receiving his initial loan. On both occasions he told Aviva the funds were mainly to help his son who was unemployed and experiencing financial difficulty.

Mr S approached Aviva soon after for a third time to request a further £20,000 to help his son and daughter in law. On this occasion, Aviva didn't immediately approve the funds. It had concerns about the frequency of the borrowing and the repeated purpose. So, it asked Mr S for more information to evidence the use of the previous funds.

Lifetime mortgages are intended to be long-term products which are meant to run for the lifetime of the borrower. No monthly repayments are required, Instead, interest rolls up over the term of the loan, which is repayable on the death of the last surviving borrower, or if the last surviving borrower moves into care.

Aviva could have agreed to ongoing drawdowns up to the maximum amount (subject to criteria). Interest would accrue on the total amount owed and the full loan would be repayable as set out above. But I would expect Aviva to take necessary steps to ensure it's making responsible lending decisions when considering the individual circumstances of each application/drawdown request.

In this case, Aviva had concerns about the nature of Mr S's drawdown requests. I don't think it was unreasonable for Aviva to request more information to support the recent request. I say this because in the space of nine months Mr S had asked to borrow over £96,000, most of which he says was to help support his son and his family. Aviva has a duty to consider its customers best interests. That is a large amount, so I can see why Aviva wanted to ensure lending Mr S more money to gift to his family was in his best interests.

Upon review of the bank statements provided, it appears Mr S was making frequent ad hoc transfers to his son and daughter in law. In less than six months he had transferred over £55,000 to them in total. From the statements provided, Aviva wasn't satisfied there was enough to evidence these funds were intended for essential spending. There were minimal direct debits set up for utilities from the recipient's accounts. Most of the funds were being used for non-essential spending and frequent cash machine withdrawals. As such, based on what Aviva knew about how previous funds were spent, it didn't think it was responsible to allow Mr S to borrow further funds (secured against his property), to fund third-party spending of this nature. When considering everything I think that was a fair concern.

Mr S reassured Aviva that he wasn't being coerced into borrowing more funds. I can appreciate his good intentions by wanting to help his family. But based on everything Aviva knew about Mr S's circumstances, I think it fairly demonstrated that It was making a responsible lending decision not to release further funds in the circumstances.

Aviva has also taken steps to ensure Mr S and his family are appropriately signposted for financial help in their circumstances and it has agreed to reduce the minimum drawdown amount from £2,000 to £500 to allow Mr S to borrow smaller amounts to help him pay his own bills, to ensure he doesn't personally struggle financially.

I've asked Aviva what its future intention is for the drawdown facility on Mr S's account. Aviva has confirmed the facility will remain in place. Any future drawdown applications will be

considered on a case by case basis. Supporting documents may be required to confirm the intended use of the funds and suitability of the lending - to ensure any realisation of funds is in the best interest of Mr S.

Based on everything I've seen I think Aviva has acted fairly and in the current circumstances I won't be asking it to change its lending decision or do anything more.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 July 2022.

Arazu Eid
Ombudsman