

The complaint

Mr M complains that more 2 Life Ltd has unfairly declined his request for a further advance on his lifetime mortgage. He says that when he took the lifetime mortgage out with the original lender, further borrowing was an available feature but that since more2life has taken over the loan – it is unfairly declining to consider his request.

What happened

Mr M has a lifetime mortgage for £300,000 – originally taken out with Northern Rock in around 2003. Since then, the loan has been taken over by more2life.

Recently, Mr M has asked for a further advance of £100,000 but has been told this was not possible. more2life explained that it does not offer further lending on the product that Mr M has as it only took over the administration of the loan in 2018 and – as Northern Rock no longer offer lifetime mortgages – it is unable to process an application for lending on Mr M's existing plan.

more2life suggested that Mr M apply to take out a new equity release plan with them – but this would incur fees and charges to exit his existing agreement and arrange a new one. And because more2life have a first charge over the property – Mr M has said he's been unable to get the £100,000 borrowing from another lender.

Unhappy with this, Mr M referred the complaint to this service.

Our investigator didn't think that the complaint should be upheld. He said that the agreement didn't come with a guaranteed drawdown option and that, as a result, further borrowing didn't need to be provided.

Mr M disagreed and so the matter has been passed to me to decide.

My provisional decision

After careful consideration, I reached a different conclusion to the investigator. So I issued a provisional decision setting out my thoughts. In this I said:

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

Did this lifetime mortgage allow for further advances?

Due to the passage of time since this lifetime mortgage was taken out, not all of the information is available. more2life has told our investigator that it has provided all the relevant information and documentation it holds on file since it took over the loan in 2018.

I've considered this carefully – as well as the information Mr M has provided and his recollections from the time when he initially took the lifetime mortgage out.

Mr M has said that, although Northern Rock has not expressed the point in writing, it was made clear to him at the time he took the lifetime mortgage out that he would be able to apply for additional borrowing. And that this would be available – subject to certain criteria such as his age and property value.

Unfortunately, I've not seen a copy of the terms and conditions that came with the mortgage and neither party has been able to provide this.

But I've considered the mortgage offer Mr M has provided from 2003 and, whilst I've not seen specific mention of further advances, I think it is likely that this lifetime mortgage enabled Mr M to apply for them. I say this as Mr M has made it clear that further advances were important to him when he took the product out and I think that informed his choice when selecting a lifetime mortgage product. I've also kept in mind that he has been able to extend his borrowing twice since taking the lifetime mortgage out – which further implies that this was a feature.

Has this changed since?

more2life has explained that when it took over the loan – it only took on the administration of the loan and that, as Northern Rock were no longer conducting lifetime mortgage business, it is not able to process an application for further lending on his current plan.

I've considered the available paperwork from the time that it was taken over. In a letter dated 27 June 2018 from the previous loan owner, Papilio, to confirm the transfer there is the following wording:

'the transfer of your mortgage account has been carried out in accordance with the terms of your mortgage. There will be no change to the current terms and conditions and more 2 life limited will be responsible for setting interest rates and charges on your mortgage account after the ownership has changed'.

This suggests to me that the mortgage was transferred to more2life in its entirety and not just for administrative purposes. And in doing so, accepted any features – as well as liability of the loan. more2life is the legal owner of this loan – it is Mr M's lender, and owes him the obligations of fairness which come with that.

This was followed by a letter from more2life which explained that the mortgage had been transferred to it and they are 'an award-winning equity release provider and retirement specialist'. This letter further confirmed that there were no changes to the terms and conditions of the mortgage as a result of the transfer.

And I've noted from other documentation that more2life has provided that 'everything about your equity release will remain the same'. The only changes to the mortgage suggested is the fee tariff and some branding now that it has changed ownership. There is not mention of a change to any other terms or removal of any features.

I've also noted in these documents that it is stated that borrowers would always be given notice in writing of any changes to the lifetime mortgage. From the information I've seen – I can't see that Mr M was given any notice that he might not be able to request additional borrowing on his lifetime mortgage as a result of the change in ownership.

And so on this basis, I currently don't consider that more2life has treated Mr M fairly when it refused to consider his request for additional borrowing on his lifetime mortgage.

Here, I'm not saying that further advances are guaranteed, as I've mentioned these would be subject to certain criteria such as Mr M's age and the value of the property. But I don't consider it fair for more2life to simply refuse to consider a request for a further advance for the reasons it has provided.

I say this as more2life is an active lender and has offered for Mr M to redeem his mortgage and take out a new one with it. But it doesn't seem fair to me that – simply because Mr M's mortgage was brought by more2life - rather than it originating with it – he should have to lose out by paying the additional fees required to do this (other than on the additional borrowing which he would have to do anyway).

Putting things right

With the above in mind, I think a fair resolution would be for more2life to consider Mr M's application for a further advance as if he was a more2life customer rather than a 'Heritage Choice' customer. I don't consider it reasonable for him to have to exit his existing mortgage contract and apply for a new one – incurring the associated fees – just because his mortgage was passed from a different lender. This would not be required if his loan had originated with more2life. In both scenarios he is a more2life customer and so I think it only fair that he should be treated in the same way regardless of where his mortgage originated.

If the application is successful, I think his mortgage should be moved to the current product range – waiving any fees – and for the further advance to be taken on those terms.

But if for some reason this is not possible – more2life should provide the reasons for this to this service within two weeks of the date of this decision. It should also detail the interest rate applicable to the mortgage and further advance, as well as any associated cost and fees.

Having considered all of the factors in this case, I'm currently minded to say that, in addition to more2life considering Mr M's application as if he were a customer applying on its active book of mortgages, it should also pay Mr M £500 in recognition of the loss of expectation and inconvenience that he suffered when he was told he was unable to apply for a further advance on his lifetime mortgage.

Having considered all of the available information and circumstances, I currently think this is fair.

Further developments

Mr M let this service know that, as he was not able to take out additional borrowing, he sold his property. And so it was not possible to put things right in the way I set out in my provisional decision. I reconsidered this and set out that I thought more2life should pay Mr M £750 in compensation in recognition of the distress and inconvenience this matter caused.

Responses to my proposed outcome

Mr M responded and accepted this.

more2life responded. It said that Mr M had been advised on numerous occasions between 2019 to 2021 that no further borrowing was available on his existing plan and the reasons for this and that he should consult with an adviser to discuss this.

It also said that Mr M would not have been charged an early repayment charge (ERC) for moving to another product should his adviser deem it to be the best course of action. But he would have needed to pay for advice and solicitors fees – which it says he would have incurred anyway, had he been able to take out additional borrowing as this required advice.

It said that as Mr M didn't proceed with a re-mortgage, it was ultimately his decision to sell his property.

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.

I've thought carefully about more2life's response and reconsidered my provisional decision in light of this.

Having done so, I still don't think that Mr M was treated fairly. Whilst I accept that he may have been informed at an earlier stage that further borrowing on his plan was not possible – I still don't consider it fair that this was the case. As I set out in my provisional decision, I think it likely that further borrowing was a feature of Mr M's original mortgage and as more2life took over legal ownership of the loan, it is also acting as the funder and therefore has the regulatory obligations to act fairly.

Whilst I've noted more2life's comments that Mr M could have re-mortgaged and that the ERC would be waived if the adviser thought this was the best course of action – I still think this presented a hurdle for Mr M to overcome. And I'm not persuaded, from the information I've seen, that it was made clear to Mr M that any ERC would be waived.

And I've also kept in mind that the arrangement of - and interest charged - on any new lifetime mortgage could be on less favourable terms than the plan that Mr M had.

And so for these reasons, and those outlined in my provisional decision – I still think this complaint should be upheld and that £750 is fair compensation in recognition of the distress and inconvenience caused to Mr M.

My final decision

For the reasons I've given, my final decision is that I uphold this complaint and direct more2life Ltd to pay Mr M £750.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 24 April 2023.

Camilla Finnigan
Ombudsman