

The complaint

Mr and Mrs H complain that they were mis-sold a Lifetime Mortgage (LM) by Just Retirement Limited (JRL).

What happened

In 2014 Mr and Mrs H took financial advice from a financial advisor AH who worked for a regulated independent financial intermediary business I shall call KRSL. They wished to obtain a LM and having taken instructions AH made a successful application on their behalf to a lender JRL. Mr and Mrs H also received independent legal advice on the transaction from a firm of solicitors unconnected to either KRSL or JRL.

On 21 March 2014 Mr and Mrs H drew down £42,500. In March 2022 Mr and Mrs H sold their property and in so doing repaid JRL approximately £80,000 in relation to the LM.

Mr and Mrs H brought their complaint to this service with the help of their son who said that neither of his parents had met anyone to sign/witness the original contractual documentation or to receive independent legal advice. That he said was in contrast to the paperwork he had seen. He was concerned about the validity of the entire arrangement and thought his parents had been mis-sold the LM and that it was not fit for their needs or circumstances.

JRL responded to the complaint by confirming that it was not they who had provided the financial advice to Mr and Mrs H, rather it was KRSL, and that Mr and Mrs H had also received independent legal advice from a firm of solicitors. They did not consider the mis-selling complaint could therefore be made against them.

Mr and Mrs H were unhappy with JRL's final response and so approached this service to see if we could assist in resolving the dispute. Our investigator thought that JRL hadn't done anything wrong, and that any mis-selling complaint should be raised against KRSL although she highlighted the difficulties which might exist in relation to bringing a complaint out of time.

Mr and Mrs H didn't agree and asked for the complaint to be passed to an Ombudsman for a final 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.

We are an informal dispute resolution service and an alternative to taking Court action. So, if I've not mentioned something then this isn't because I've ignored it, it's simply because I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I have considered the views advanced on behalf of Mr and Mrs H by their son and all the available evidence.

I have seen the solicitor's independent legal advice certificate dated 18 March 2014 signed by both Mr and Mrs H, which amongst other things, records that they had agreed to proceed with the LM based on advice provided to them by KRSL, and that they wished to enter into the LM.

I have also seen the agreement Mr and Mrs H entered into with JRL dated 21 March 2014. This explains, amongst other things, the interest rate, the initial advance of £42,500, and that a product guide had been received by Mr and Mrs H. Their signatures were witnessed by a solicitor who confirms he was in their presence when they signed the agreement on 18 March 2014.

I have looked at the LM offer which confirms the advice was given by KRSL. It also sets out a table showing how the interest would accrue on the money borrowed over a period of 18 years.

I've looked at the application form Mr and Mrs H completed which shows that their independent financial advisor was AH.

Whilst Mr and Mrs H's son said that the paperwork was signed by his parents in the absence of anyone else, the evidence shows that it was not. However, irrespective of that point, the issue here is whether the complaint has been brought against the right business. The evidence shows that JRL did not give Mr and Mrs H financial advice. They are simply the lender, and they didn't advise on the sale of the LM product. It was the role of KRSL to provide the financial advice and it was they who sold the LM to Mr and Mrs H. And Mr and Mrs H did receive independent legal advice as evidenced by the certificate date 18 March 2014.

So, I am satisfied that JRL have not acted unfairly or unreasonably here, and they are not the correct business against whom any complaint of mis-selling should be brought.

My final decision

For the reasons set out above I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 9 September 2024.

Jonathan Willis
Ombudsman