

The complaint

Mr and Mrs C's complaint is about a lifetime mortgage taken out with Aviva Equity Release UK Limited. They are unhappy that, because of the valuation placed on the property by a surveyor appointed by Aviva, the interest rate on their mortgage offer increased from the rate originally quoted in the Key Facts Illustration (KFI), which had been based on their own estimate of the property's value.

To settle the complaint, Mr and Mrs C want Aviva to apply the interest rate on the original KFI. They believe it's unfair that Aviva changed the interest rate after the valuation came in much lower than they'd anticipated.

Mr and Mrs C are represented in the complaint by their financial adviser, Mr B, who has made all submissions on Mr and Mrs C's behalf.

What happened

In August 2022 Mr and Mrs C applied for an equity release mortgage, with Mr B acting as their adviser. They estimated the property to be worth £420,000, and wanted an initial advance of £60,000 (including a £5 fee), with a cash reserve of £40,000. Based on the information provided to Aviva, a KFI was generated which gave an interest rate of 4.29%. Mr and Mrs C decided to go ahead with the application.

As part of the application process, Aviva instructed an independent surveyor to inspect the property. He is a Member of the Royal Institution of Chartered Surveyors (RICS) and he valued the property at £350,000. As a result, on 15 September 2022 Aviva generated a new KFI with an interest rate of 5.26%.

Mr B queried this with Aviva, and was told that if the valuation had been within 10% of the estimated value given by Mr and Mrs C, then they could have had the interest rate of 4.29%. Aviva explained that this is what is known as the 'margin of error' or 'tolerance level'. However, the surveyor's valuation was outside this 10% tolerance level, and so Aviva wasn't able to go ahead with the interest rate based on Mr and Mrs C's estimated valuation of the property.

Mr B challenged this, saying that there were no comparables of similar properties, and that *"a shipping container parked on the site... would fetch circa £400k..."* Mr B said that he'd never heard of a 10% tolerance in relation to valuations, and felt that this policy was unfair on Mr and Mrs C, who were not RICS-qualified and couldn't have been expected to know about it.

Mr and Mrs C accepted the mortgage offer at the rate of 5.26% and the mortgage completed on 28 October 2022. Mr B raised a complaint on behalf of Mr and Mrs C, saying that the original interest rate quoted of 4.29% should be applied to the borrowing.

Aviva didn't uphold the complaint, so it was raised with our service. An Investigator looked at what had happened but didn't think the complaint should be upheld. Mr B requested an Ombudsman's 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.

I will begin by explaining that a KFI is not a mortgage offer – it is simply an illustration of how much Aviva is prepared to lend and how much it will cost, subject to a formal application. The KFIs issued by Aviva explicitly state that a KFI is not a legally-binding mortgage offer and is simply an illustration of how much Aviva might be prepared to lend, based on the information provided, on the date the KFI is generated.

The KFI from August 2022 was based on information provided by Mr and Mrs C. As Mr B has noted, Mr and Mrs C aren't RICS-qualified, and guessed that their property was worth £420,000. Ultimately, once a RICS-qualified surveyor had inspected the property, it transpired that Mr and Mrs C's estimate of what they thought the property was worth was inaccurate.

The valuation came back at £350,000, compared with Mr and Mrs C's estimated valuation of the property at £420,000. I've noted what Mr B has said about what he perceives to be the likely value of the property, and that he thinks a shipping container parked on the site would be worth £400,000. However, I'm satisfied Aviva was entitled to rely on its own surveyor's professional opinion.

The surveyor said the property required some works of repair and maintenance and the limited photographs taken appear to support this. In addition, the surveyor said "*The instructed value [Mr and Mrs C's £420,000 estimate] is considered to be high and is not supported by evidence of sales of comparable properties in the locality.*" Having read the valuation report, I'm satisfied the surveyor was diligent in his inspection of the property, and gave reasons for his conclusions.

Mr B has provided information from online property portals for comparable properties, which he says supports his and Mr and Mrs C's contention that the property was worth far more than £350,000. What hasn't been provided, however, is an independent survey carried out at the same time as Aviva's surveyor inspected the property in 2022.

Mr and Mrs C's property – a chalet bungalow – is a 2-bedroomed property, situated on an A-Road. I note satellite photos show it to have a smaller footprint than its immediate neighbours. Online data shows that the majority of properties on the same road are 3, 4 or 5-bedroomed properties. Within the same postcode area, I've found the following properties (none of which are on an A-Road):

- a modernised 3-bedroomed bungalow sold in for £330,000 in October 2022;
- a 4-bedroomed detached bungalow with two bathrooms sold for £320,000 in October 2022;
- a modernised 3-bedroomed chalet bungalow sold for £342,000 in August 2022;

This independent data doesn't suggest to me that the valuation of £350,000 from Aviva's surveyor in September 2022 is inaccurate, or an outlier when considering similar properties in the same area.

The 10% tolerance in relation to valuations is the legal standard endorsed by the courts in numerous cases where there is an allegation of negligent valuation. The courts have found that it can be as high as 15% in relation to unique commercial developments, or as low as 5% in residential lending cases.

Therefore, because the valuation was outside the 10% tolerance from the estimated valuation given by Mr and Mrs C of £420,000, I'm satisfied Aviva was entitled to review its lending decision, because the lower valuation meant the risk to Aviva was higher.

It's up to Aviva to determine its lending criteria, including its appetite for risk. In this case, the increased risk to Aviva due to the lower valuation resulted in a change in the interest rate. So whilst I appreciate Mr and Mrs C weren't able to have the lower interest rate, I'm not persuaded Aviva has treated them unfairly in applying its lending criteria. These criteria apply to all customers, and so I'm unable to conclude Aviva has acted unreasonably in applying them to Mr and Mrs C's application. This means there's no basis on which it would be fair or reasonable for me to order Aviva to substitute the interest rate of 5.26% with the rate initially quoted of 4.29% in the non-binding KFI.

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 discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 20 May 2025.

Jan O'Leary
Ombudsman