DRN-5513557

**The complaint**

Mr F1 complains that Key Retirement Solutions Limited mis-sold a lifetime mortgage to his late father, Mr F. He says Mr F was sold a mortgage he neither needed nor properly understood.

Mr F1 is the executor of Mr F's estate and brings the complaint on the estate's behalf.

**What happened**

Mr F initially approached Key for advice in 2013. In early 2014 a Key adviser met with him at his home to discuss his situation. The adviser subsequently recommended a lifetime mortgage of £31,000. Mr F made an application but put it on hold – Key says its records show this was due to family issues. He later asked to go ahead and a mortgage offer was issued in August 2014. Mr F then decided he didn't want to proceed. Key says this was because he was unhappy with the valuation of his property.

In March 2015 Mr F got back in touch with Key. In May 2015 Key recommended he take out a lifetime mortgage of £50,000 – a cash lump sum of £49,400 plus £600 for fees. No payments would be required and the interest would roll up and be added to the mortgage balance.

Mr F went ahead with this recommendation, and in June 2015 the lender issued a mortgage offer for £50,000 at a fixed interest rate of 5.39%. The mortgage completed in August 2015.

Mr F died in early 2024. Mr F1 made a complaint on behalf of the estate later that year. He said that Mr F had gone to great lengths to hide the mortgage from his family and that the mortgage wasn't suitable. He said Mr F didn't need the money from the mortgage and was very vulnerable in 2014 and 2015 – he was grieving for his late wife and had multiple health issues, some of which affected his memory and ability to understand and make decisions.

Key said it had made a suitable recommendation and had no reason to have questioned Mr F's capacity to make financial decisions and to take out the mortgage. Mr F1 didn't accept that, so he asked the Financial Ombudsman Service to investigate.

Our Investigator initially said the complaint should be time-barred. Mr F1 then provided further information and documents about Mr F's health, and our Investigator accepted that Mr F's poor health meant he couldn't have complained within the relevant time limits. Key accepted that and agreed that we could look into the complaint.

The Investigator then considered the complaint and didn't recommend that it should be upheld. He didn't think that the available evidence showed Mr F lacked capacity to manage his affairs in 2015 or that Key could reasonably have supposed otherwise. He also noted that an independent solicitor had given Mr F legal advice about the mortgage and hadn't raised any concerns.

Mr F1 didn't accept that and asked for an Ombudsman's review. He provided further documents about Mr F's health and financial situation and said he still thought this mortgage should never have been recommended.

**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 was sorry to read that Mr F1 and his family have been facing health problems at a difficult time, and I hope they will accept my condolences on the loss of Mr F. I realise Mr F1 will be disappointed by my decision, but I have come to the same overall conclusion as the Investigator – I can't fairly uphold this complaint.

Under the rules of mortgage regulation, Key had to take reasonable steps to ensure that any recommendation it made to Mr F was suitable for him, bearing in mind what Mr F told it about his needs and circumstances and any other relevant facts it should reasonably have been aware of.

I think Key did that. It went through a fact find process with Mr F and its recommendation letter dated 19 May 2015 sets out his situation and the reasons for its recommendation. This says that Mr F had recently sold his holiday cottage and given the proceeds of the sale to family, he wanted to rebuild his savings, and that he wanted to borrow the maximum amount available for home improvements, holidays and an emergency fund. His situation and borrowing requirements had changed from what they had been when Key made its first recommendation in 2014. The letter also says that options other than a lifetime mortgage were considered for Mr F to generate the money he wanted but Mr F discounted them, and that Mr F had discussed his plans with his family.

The recommendation letter goes on to say that Mr F should only release the minimum amount he required for his immediate needs, because of the cost of compounding interest on the mortgage. The key facts illustration issued on the same day, 19 May 2015, illustrates how interest would roll up on the mortgage over time.

Key was required to consider Mr F's health and life expectancy as part of the advice process. The recommendation letter satisfies me that it did that. The letter says: "You consider yourself to be in good health […] You have had a mini stroke and this could affect life expectancy." Mr F had to take advice from an independent solicitor before he could take out the mortgage, and I've seen a copy of the completed solicitor's certificate showing that he did so. This confirms that the solicitor explained the terms and implications of the mortgage to Mr F.

I've carefully considered everything Mr F1 has told us about his father's vulnerability at the times he was dealing with Key in 2014 and 2015, as well as the documents he has provided about Mr F's health and financial situation. It's clear that Mr F's health declined from 2016 onwards – he received Attendance Allowance from August 2016 and a medical professional's letter from December 2016 confirms that he had "early memory problems, confusion, mood swings". A later letter says that Mr F's GP had confirmed his "severe mental impairment" began in January 2020.

Key had an obligation to pay due regard to Mr F's best interests and, if it was in any doubt about his capacity to understand the mortgage it shouldn't have recommended he go ahead with the mortgage and it could instead, for example, have asked for an independent opinion from a suitably qualified medical practitioner. Mr F had a progressive condition which affected his cognitive ability, but I don't think Key knew or should reasonably have known that. There's nothing I've seen in this case that leads me to conclude that Key should have been on notice that Mr F didn't have capacity to take out this mortgage in 2015. The medical evidence Mr F1 has provided refers to Mr F's *early* memory problems more than a year later, at the end of 2016. Key met with Mr F in person and he had independent legal advice, and there's nothing to indicate that either the Key adviser or the solicitor had any concerns about his ability to make a decision about whether to take the mortgage.

In all the circumstances, I don't think I can reasonably conclude that the mortgage Key recommended was inappropriate for Mr F's needs and circumstances as the available records say he described them to Key at the time, which include the reasons why he wanted to release the amount of equity he did from his property. I'm satisfied that the advice Key gave was suitable at the time it was given, it explained to Mr F what it was recommending and why, and Mr F chose to go ahead with that recommendation. For these reasons, I can't fairly uphold Mr F's estate's complaint.

## 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 F1 on behalf of the estate of Mr F to accept or reject my decision before 11 September 2025.

Janet Millington
**Ombudsman**