

The complaint

Mr S has complained about what happened when he requested a drawdown from his Aviva Equity Release UK Limited lifetime mortgage.

What happened

Mr S took out this lifetime mortgage in June 2023. He borrowed around £41,000 and an additional cash reserve of £24,000 was put in place. On the application form for the lifetime mortgage it was stated that Mr S wanted the initial advance to pay for some home improvements, which were noted to be 'replace boiler, decorate, walk-in shower, new conservatory roof' and the £24,000 cash reserve was said to be ear-marked for holidays and emergency funds.

On 20 November 2023 a request was made to drawdown some funds. Aviva spoke to Mr S's partner on the phone, with his authority, as his speech was affected due to a health condition. She said she was currently in the process of obtaining Power of Attorney, and that the funds would be used to pay for home improvements. She said those were repairing the conservatory roof, as well as some flooring. The notes indicate Aviva queried the use of the funds as they were the same as Mr S had said he was going to use the original advance for. Mr S's partner said that the bathroom, boiler and most of the decorating had been completed but they didn't manage to get the conservatory done. She said Mr S hadn't received a written quote at that time, so Aviva asked that he obtain a quote and send that in so it could process the drawdown request.

An email was sent to Mr S the same day asking that he provide a quote for the home improvements, and it said that once Aviva received that it would be in contact to proceed with the drawdown.

Nothing further happened until Aviva received an email from Mr S on 29 February 2024 to say his partner had passed away. In that email he said he still wanted to complete the drawdown but needed help, and said he would send the estimate for the work. Mr S asked that Aviva didn't call him as he was unable to talk on the phone due to his health condition.

I won't detail all the back and forth between the parties after that point as it was fairly extensive and isn't in dispute.

A complaint was raised in May 2024 and, as eight weeks had passed without a response, Mr S referred the complaint to our service on 2 September 2024.

Aviva responded to the complaint on 16 October 2024. It said it recognised things hadn't gone smoothly, and so it had now appointed a dedicated case handler for Mr S's drawdown request. It said all it needed from Mr S was details of his financial adviser or solicitor and then the process could be completed, and that once it was completed it would consider the complaint in full so everything could be considered.

I understand the drawdown completed on 28 November 2024, with the funds sent to Mr S's nominated bank account.

Aviva sent its final response letter the same day. In that is accepted it hadn't handled Mr S's drawdown request well. It said that as a result of Mr S's complaint it had looked at what it could do to adapt its process so Mr S could access his drawdown without the need for any additional costs. It offered £3,500 compensation, and said that it would also reimburse Mr S for the cost of an electrical report he'd obtained upon receipt of an invoice/receipt for that.

There was some further correspondence between the parties and on 2 December 2024 Mr S indicated he accepted the £3,500 compensation.

In January 2025 Mr S's representative told our service the complaint against Aviva might be resolved, but one remained outstanding against the broker that gave the original advice to take out the lifetime mortgage. It was agreed that our Investigator would send an email to Mr S to see what he wanted to do with the two complaints. Our Investigator sent that email asking Mr S if he wanted to pursue his complaint against Aviva, against the broker or against both businesses.

Mr S confirmed he wanted to proceed with a complaint against both businesses as he felt the broker had misrepresented how the drawdown would work, and Aviva had caused difficulties due to the delays.

To be clear, this complaint just relates to the acts or omissions of Aviva. I'm not considering what the broker did or didn't do, nor can I consider the original advice given about how things would work as a complaint about that would be the responsibility of the broker. I am just looking at what Aviva did and didn't do once Mr S requested a drawdown on 20 November 2023.

Our Investigator said that Aviva didn't treat Mr S fairly and things took too long, however it had taken the right steps eventually and £3,500 compensation was fair, so he didn't think it needed to do anything more.

Mr S said the compensation wasn't enough for all the stress and financial worries caused to him and his late partner. As an agreement couldn't be reached the case has been passed to me to decide.

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 trust Mr S won't take it as a discourtesy that I've condensed his complaint in the way that I have. Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

I hope Mr S will accept my condolences for his loss. I've a great deal of sympathy for the position he was in, losing his partner and parents whilst also trying to deal with Aviva and the drawdown of the funds. Things can't have been easy for him.

It isn't in dispute that Aviva got things wrong here and that the process took much longer - and caused much greater inconvenience and upset to Mr S - than it should. Aviva has accepted that and so I don't need to make a finding on that. Instead, I need to decide if the payment of £3,500 already made by Aviva is enough to put things right, or if it needs to do anything more.

I agree that a drawdown from the cash reserve was available without any further approval. However, that isn't the end of matters. I'm required to decide what I consider to be fair and reasonable in all the circumstances of the complaint.

Aviva didn't decline Mr S's request – it merely asked for further information so that it could try to protect him from potential fraud, scams and/or coercion and any other potential misuse of the funds. Aviva also had a responsibility to ensure that Mr S had the capacity to enter into a further borrowing agreement, and that he understood the costs and implications of the drawdown. I consider this was a legitimate reason for it to ask for more information.

I can see Aviva had concerns about the reason given for the funds being needed as they were the same things that Mr S had said he was going to spend the original £41,000 on. I can understand why that concerned Aviva such that it wanted to carry out further checks.

This is in line with what I consider to be good industry practice. These are things that I am required to take into account in deciding what is fair and reasonable in the circumstances of a complaint.

Aviva is a member of the Equity Release Council. It has a number of overarching principles and required customer outcomes. These are:

- Members will ensure that all their actions promote public confidence in equity release.
- Members will act at all times to deliver good outcomes for retail customers.
- Members will ensure conflicts of interest are identified swiftly and managed fairly.
- Members will seek to deliver suitable outcomes for customers from initial sale through every point of contact during the life of the product.

And;

- Members will offer customers the products and services that suit their needs best and which offer fair value.
- The amount charged by a member for a product/service should reflect the benefits customers expect and communicated in a manner customers can understand.
- Members will seek to identify and provide appropriate support to customers who may be exposed to physical, mental and financial vulnerability at any point of contact.
- Members will do their best to make sure that customers understand their rights and responsibilities at every point of contact.
- Customers will be confident that they will be able to live in their own property for as long as they wish, or move to a suitable alternative property, as long as they abide by the terms and conditions of their contract.

In my experience, good industry practice would require lenders to look for potential warning signs that a borrower might have fallen victim to a fraud or scam or that a drawdown request might not be in the borrower's best interests.

Here we had a customer, Mr S, that was unable to speak with Aviva and a third-party that wasn't named on the account was saying Mr S wanted to drawdown much of his cash reserve for the same things Mr S had said he was going to spend the original advance on.

Whilst it may have been completely legitimate that the works were mostly completed but had gone over budget so the drawdown was required to finish things off, I can understand Aviva's concerns. Indeed, we see complaints from borrowers that the lender did not carry out adequate checks who have drawn down money in similar circumstances who had fallen victim to a scam, or were subject to coercion.

I consider it was reasonable and good practice for Aviva to ask for the further information from Mr S before it approved the drawdown. The cash reserve was always available to Mr S. Aviva simply wanted to check that the drawdown was in his best interests and he hadn't been the victim of a fraud or scam, or potential coercion, before releasing the funds. As far as I can see it was not carrying out any checks that it would undertake when approving an application for an equity release mortgage. Rather it was taking steps to make sure that the drawdown was in Mr S's best interests.

Mr S may not have been the victim of a fraud or scam, or of any other potential things that could cause people to lose the money they draw down from an equity release mortgage. But I consider here that Aviva was acting reasonably – and in line with good industry practice – in asking for the information it did. It was Mr S's decision whether or not to provide that information, but without it, Aviva could not satisfy itself that Mr S wasn't at risk.

Aviva requested that information from Mr S on 20 November 2023 and he provided it on 15 March 2024. Whilst I fully understand why Mr S didn't send it sooner, I can't hold Aviva liable for that part of the delay as it couldn't proceed until it had received the invoice. I mean no disrespect to Mr S in that regard, as I understand what a difficult time he went through.

I can also understand that Aviva had some further questions once it had received the invoice as it wasn't clear whether the works had already been completed and this was a final bill, or whether the work was ongoing or yet to be started. Again I can understand why Aviva had those queries.

There was also mention of 'electrics' on the invoice which led Aviva to ask for a certificate to show the electrical work had been carried out to the required standard. This is the point where Aviva should have done things differently as it wasn't made clear to Mr S what it required and why, and once that was established – many months down the line – it became apparent that a certificate wasn't required.

There were delays in Aviva responding to Mr S's correspondence and when asked for an explanation as Mr S didn't understand what was required, Aviva simply repeated the same information.

There were also delays as Mr S couldn't follow Aviva's normal process of undertaking a phone conversation to make the drawdown, but the written process would have required Mr S to pay a financial adviser or solicitor to act on his behalf, which Mr S said he couldn't afford to do. I was pleased to see that the Aviva complaint handler identified that was an unreasonable barrier and would have meant Mr S was being treated in a less favourable manner to other customers that were able to speak on the phone. But, like our Investigator said, Aviva should have come to that conclusion much sooner than it did.

Having considered everything very carefully I agree there were significant delays here, but Mr S hasn't sent us anything to show those delays caused him a financial loss. Instead I'm just thinking about the impact this would have had on him. Mr S was going through what was already a difficult time, and he'd expressed to Aviva that he needed help. Aviva should have stepped in at that time and put in place what it did at the end of the process, instead of it taking many more months and a formal complaint that also wasn't responded to as quickly as it should have been.

I've taken into account all the circumstances when making my decision; here, that includes how Mr S has described the impact of what happened on him, but also how Aviva responded to the complaint.

I must also bear in mind the general levels of awards the Financial Ombudsman Service makes for non-financial loss. There are some case studies about this on our website which Mr S may find helpful¹.

We've no power to fine or punish businesses, and our awards aren't punitive. Clearly no amount of compensation can change what happened. Aviva offered compensation of £3,500 to Mr S, that puts the award in our band "An award ... of up to £5,000" which our website explains as:

'An award of over £1,500 and up to around £5,000 is appropriate where the mistakes cause sustained distress, potentially affecting someone's health, or severe disruption to daily life typically lasting more than a year. A mistake that has an extremely serious short-term impact could also warrant this level of compensation, but usually you'd expect some ongoing or lasting effects.

Examples at the higher end could include where the effects of the mistake are irreversible or have a lasting impact on someone's health or even resulted in a personal injury.'

That describes this situation well, and I'm satisfied the award should sit around the midpoint of this band, which Aviva's offer does.

Aviva also offered to refund the cost of the electrical report Mr S obtained upon receipt of proof of payment of that, but as Mr S hasn't, so far, provided that to either Aviva or our service no refund has been made. If Mr S supplies a copy of that to Aviva within 30 days of him accepting this decision (if he accepts it) then Aviva should make that refund as it has offered.

I appreciate this decision is likely to be disappointing for Mr S as he clearly feels strongly about this matter, and I've seen what he's said about the impact this had on him. But I hope he'll understand the reasons for my decision.

My final decision

Aviva Equity Release UK Limited has already made an offer to pay £3,500 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Aviva Equity Release UK Limited should pay £3,500 (if it hasn't already done so).

Aviva Equity Release UK Limited should also refund the cost of the electrical report if Mr S accepts this decision and provides adequate proof of payment of that within 30 days of his acceptance of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 May 2025.

Julia Meadows
Ombudsman

¹ www.financial-ombudsman.org.uk/consumers/expect/compensation-for-distress-or-inconvenience