

The complaint

Mrs H's complaint is about an equity release lifetime mortgage taken out in 2006 and which is now owned by Just Retirement Limited trading as Just. Mrs H is represented in the complaint by a family member, Mrs W, who says that, after she took over Mrs H's finances in 2024, she learned about the mortgage and believes it was mis-sold. Mrs W says that Mrs H has no recollection of taking out the mortgage and doesn't know what happened to the money.

What happened

I don't need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs H or Mrs W being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision.

In 2006 after taking advice from their own independent financial adviser, Mrs H and her husband, Mr H, who has since passed away, took out an equity release lifetime mortgage with a company I will refer to as NL. Mrs and Mrs H borrowed £65,600 (including £595 fees) at a fixed interest rate of 6.09%. The loan was secured against their property, which was valued at £160,000.

In common with this type of mortgage, no monthly repayments are required; instead interest rolls up into the account balance, and is repayable either on the death of the last surviving borrower, if the property is sold, or if the borrower moves into sheltered accommodation or residential care.

I am sorry to note that Mr H passed away in 2015. In 2017 the mortgage, which is now in the sole name of Mrs H, was taken over by Just.

In August 2024 a complaint was made to Just by Mrs W on behalf of Mrs H. Mrs W said that she believed the mortgage had been mis-sold. In its final response letter, Just didn't uphold the complaint, explaining that it hadn't sold the mortgage, and that it had taken it over from the previous lender.

Dissatisfied with Just's response, a complaint was made to our service. Mrs W said that she believed Just was responsible for taking over the lifetime mortgage, which had been sold to a *"vulnerable person"*. Mrs W said that Just had failed to offer any assistance, *"yet will be happy to take the money from the property"*.

An Investigator looked at the complaint. He noted that, despite the mortgage having been taken out in 2006, Just consented to us looking at it, notwithstanding that, on the face of it, the complaint was outside the time limits contained in our rules.

The Investigator was satisfied that Just hadn't been responsible for the sale of the mortgage, as it had been sold by Mr and Mrs H's own independent financial adviser. He explained to

Mrs W several times that a complaint would need to be raised against the business which sold the mortgage, which was a firm I will refer to as Q.

In relation to the complaint against Just, the Investigator was satisfied that Just hadn't done anything wrong. When the mortgage was taken out, Mr and Mrs H had received advice from Q, and from their own solicitor. The solicitor had completed the Safe Homes Income Plan (SHIP) certificate confirming that he had explained all the terms of the mortgage and the implications of entering into it to Mr and Mrs H and that they were happy to proceed.

Mrs W didn't agree with the Investigator's findings and asked for an Ombudsman to review the complaint. She said (and I summarise) that as far as she was concerned the mortgage had been sold by NL. Mrs W said that Mr H's bank had been unable to provide any evidence to show that the mortgage funds had been paid into his account, and there is no proof that he ever received the payment.

The Investigator reiterated that, in relation to the sale of the mortgage, a complaint would need to be made to Q. However, he confirmed he would pass the complaint against Just to an Ombudsman for review.

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, under our rules, we can't consider a complaint made more than six years after the event, or more than three years after the complainant (Mrs H) first knew, or ought reasonably to have known they had cause to complain. The only exceptions to this are if the business concerned has consented to us looking at the complaint, or if there are exceptional circumstances that prevented the complaint from being raised within the time limits.

On the face of it, the complaint is out of time, as the mortgage was taken out in 2006, and Mrs H was aware of this from the paperwork she'd received from the lender at the time, as well as when Just took it over in 2017. However, Just has consented to us considering the complaint, notwithstanding that it is out of time, and so under our rules, I am able to review it.

I will also clarify that, under our rules, Mrs H is a consumer, and so meets the definition of an "eligible complainant" set out in our rules. The rules say that a complaint may be brought on behalf of an eligible complainant by a person authorised by the eligible complainant or authorised by law. In this context, Mrs H is represented in the complaint by Mrs W.

But I must explain that, although Mrs W is representing Mrs H, it is Mrs H who is Just's customer. Mrs W's role as representative is to bring the complaint on behalf of Mrs H, in the same way that other consumers might instruct a solicitor or accountant to represent them in a complaint. But this does not entitle Mrs W to air her own grievances about Just because she is not its customer; Mrs W's role is limited to putting forward Mrs H's complaint.

The crux of this complaint is that Mrs W says the mortgage was mis-sold to Mr and Mrs H because Mr H was vulnerable, and that there is no evidence of any payment of the mortgage funds being made into his bank account.

The mortgage wasn't sold by Just, it was sold by a financial adviser, who was a representative of a network which is now owned by Q. Therefore it is Q which is responsible for answering a complaint about alleged mis-sale of the mortgage. In relation to Just's

involvement, as it has taken over the mortgage from NL, it is responsible for answering the complaint about the drawing down of the loan.

The available documentation is limited, given the passage of time. However, I have seen the mortgage offer and the SHIP certificate.

At the time the mortgage was taken out, it was governed by the rules issued by SHIP (now known as the Equity Release Council). Those rules provided that, before the funds for the mortgage could be released, borrowers had to take advice from their own independent solicitor, who had to complete a certificate confirming this had been done. I've seen the SHIP certificate completed by Mr and Mrs H's solicitor on 25 September 2006, which sets out a list of the advice Mr and Mrs H were given about the mortgage.

The SHIP rules state that if the solicitor has any concerns about the capacity of their client to understand what they are doing, or believes they are acting under duress, the solicitor is required to alert the lender. The fact that the solicitor acting for Mr and Mrs H completed the SHIP certificate is sufficient to persuade me that he was satisfied there were no such issues.

I've noted Mrs W's concerns that Mr H's bank has been unable to provide records from 2006 showing receipt of the funds. However, the funds would have been released by NL to Mr and Mrs H's solicitors, who would have followed Mr and Mrs H's instructions about the account into which they wanted the money to be paid. It wasn't NL's responsibility to arrange this.

In the circumstances, I'm unable to find that there was anything untoward in this mortgage being set up in 2006 by NL, or that Just is in any way responsible for the sale of the mortgage.

As the Investigator explained, if Mrs H believes the mortgage was mis-sold, she will need to complain about this to Q, which is the business responsible. If she is unhappy at Q's response, a complaint can be raised with our service. However, given the passage of time, our ability to consider a complaint against Q may be contingent on the time limits in our rules.

In relation to the complaint against Just, I'm unable to find Just has done anything wrong.

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 Mrs H to accept or reject my decision before 24 June 2025.

Jan O'Leary
Ombudsman