

The complaint

The estate of Mr C complains that Aviva Equity Release UK Limited (Aviva) pressured and coerced the late Mr and Mrs C into taking an equity release mortgage and has continued to apply interest to the mortgage following their passing, despite it telling the executor of the estate that it wouldn't.

The complaint is brought by the executor of the estate, Mrs T.

What happened

Mr and Mrs C took an equity release mortgage with Aviva in 2011. And they drew down further funds in 2017. In 2021, Mrs T made a complaint regarding the sale of the mortgage on their behalf. Aviva sent a final response letter on 10 November 2021, which addressed the sale of the mortgage. It didn't uphold the complaint.

Mrs C passed away in 2022, at which time the mortgage transferred to Mr C's sole name under survivorship rules. Mr C passed away in 2024.

Following this, Mrs T complained again, this time on behalf of the estate. She said that Mr and Mrs C had been coerced into taking the mortgage and that they wouldn't have willingly taken something that would've reduced her inheritance. Mrs T also complained that she'd been told in 2021 that no further interest would be charged following Mr C's passing.

Aviva responded to this complaint on 18 September 2024. It said it had already responded to the complaint about the mortgage being mis-sold in 2021 and wouldn't respond to this point again. Aviva explained that it has correctly applied interest following Mr C's passing as per the mortgage terms and conditions. Mrs T remained unhappy with this response and referred the complaint to our Service.

One of our Investigators explained to Mrs T that the complaint about the mortgage being mis-sold had been brought to us more than six months after Aviva had issued its final response which meant it had been referred to us too late for us to consider it. Mrs T didn't agree with this so the complaint was passed to an Ombudsman to decide which points we could consider.

An Ombudsman issued a decision on 20 March 2025. This explained that the complaint about the mortgage being mis-sold had been referred to us too late to be considered. But the Ombudsman did say we could consider the complaint point about the estate being mis-informed about interest continuing to accrue.

The complaint was passed back to our Investigator to review the matter we could consider, but she didn't think it should be upheld. She said, in summary that interest had correctly been applied following Mr C's passing. And she didn't think there was evidence to suggest Mrs T was told that interest would cease at this time.

Mrs T didn't accept this and asked for the complaint to be passed to an Ombudsman. So, it's now with me to consider and make 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.

First, I need to remind Mrs T that another Ombudsman has already issued a decision relating to the complaint about the mortgage being mis-sold. The Ombudsman explained that complaint point had been brought to us too late for us to consider it. That remains the case, and I agree with the other Ombudsman that complaint was brought too late for us to consider it. Mrs T has given further reasons for why she thinks this complaint point should be upheld. But that doesn't alter the fact that it wasn't referred to us in time. So, this decision purely addresses whether Mrs T was told that interest wouldn't continue to be incurred on the mortgage following Mr and Mrs C's passing.

The key dispute here is that Mrs T is adamant she was told in 2021 that once Mr C passed away, interest would no longer be added to the mortgage. In situations like this when what's happened is in dispute, I have to make my decision based on the balance of probabilities. That is, what I think most likely to have happened given the evidence I do have.

I understand Mrs T is convinced that she was told that interest wouldn't continue to be applied after her parents passed away. And I've no reason to doubt her recollection of a call some four years ago. But this alone isn't enough for me to say that she was provided with incorrect information. And I have to consider that memories can fade over time.

Aviva has managed to find two calls from that time from Mrs T. It's unfortunate Aviva can't find any further calls, but it's not required to retain them indefinitely. Aviva has provided evidence to show it's searched its systems and cannot locate any more calls than it's provided to us. I know Mrs T firmly believes that this call exists and must've been deleted. However, we can't force a business to provide us a call it says it has no record of.

The mortgage offer provided to Mr and Mrs C when they took the mortgage stated that interest would continue to be incurred until the mortgage was repaid. And I need to take into account that during one of the calls that Aviva has been able to provide Mrs T is correctly informed that interest would continue to be incurred until the mortgage was repaid. It's possible Mrs T was given incorrect information, but on balance, I can't safely say that she was.

I'd also add that, even if Mrs T was told that interest would cease once Mr and Mrs C passed away, it doesn't follow that I'd tell Aviva it had to honour this. If Aviva did make a mistake in what it told Mrs T, this doesn't override the terms and conditions of the mortgage offer which I'm satisfied does allow Aviva to continue to charge interest until the mortgage is repaid. Mrs T was given the correct position with regards to interest continuing at one point. And I can't see that Mrs T would've been able to repay the mortgage sooner to avoid further interest being charged. I might typically be able to award compensation for distress and inconvenience if I did think that incorrect information had been provided. But Mrs T isn't a customer in her own right here. She's representing the estate of Mr and Mrs C, so isn't eligible herself for an award of compensation for any potential distress and inconvenience caused.

Whilst I recognise Mrs T feels very strongly about this matter, I can't say on balance that Aviva has made a mistake and I'm not going to tell it to take any further action.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr C to accept or reject my decision before 15 August 2025.

Rob Deadman
Ombudsman