

The complaint

This complaint's about an equity release lifetime mortgage that Mrs C took out in 2023, on the advice and recommendation of St. James's Place Wealth Management Plc (SJP). The complaint is that the lifetime mortgage was mis-sold; Mrs C is represented here by her current financial advisor, whom I'll refer to as Mr R.

What happened

In what follows, I have summarised events in rather less detail than has been presented, using my own words and rounding the figures. No discourtesy's intended by that; it's a reflection of the informal service we provide, and if I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint. An example of that is the Consumer Duty, which isn't a consideration here, as it was introduced several months after the mortgage was sold.

This approach is consistent with what our enabling legislation requires of me. It allows me to focus on the issues on which I consider a fair outcome will turn and not be side-tracked by matters which in my view will have little or no impact on the broader outcome.

Mrs C took the mortgage out in 2023, with a lender I'll call A. It was for around £1.46m, and replaced an existing equity release mortgage with a different provider, which Mrs C had taken out jointly with her husband, before he sadly died. The new mortgage raised about £102,000 of new funds, which Mrs C needed to fund 24-hour domiciliary care. This was needed because whilst Mrs C has full capacity, she is of advanced age, physically frail and largely immobile.

The cost of Mrs C's domiciliary care is such that the funds raised in 2023 have been used up; she has no other source of funds to pay for her care, and whilst A provided some additional funding on an emergency basis to fund her continued care in the short term, this runs contrary to its lending policy. Mrs C's advanced age means she isn't eligible for a further advance.

Her only alternative now is to sell her current home and downsize to a more modest property to realise funds for her ongoing care. The crux of the complaint is that Mr R believes SJP should have advised Mrs C to downsize in 2023, at a time when the mortgaged property was seemingly worth more than it is likely to sell for now.

Our investigator didn't recommend the complaint be upheld; Mr R asked for the case to be referred to an ombudsman for review.

What I've decided – and why

I'll make some general observations before dealing with the specifics of the complaint. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

I've noted what Mr R has said about how there should be more detailed evidence sitting behind the recommendation, especially around the costings of the alternatives, and the involvement of Mrs C's daughter – also present – in the discussion. However, we're impartial, and we don't take either side's instructions on how we investigate a complaint, or when we have enough information on file to decide it. I'm satisfied that's the case here.

Under our rules, we can consider a complaint from a consumer. Mrs C is a consumer, so she meets the definition of an "eligible complainant" set out in our rules. Our 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 respect, Mr R is bringing the complaint on behalf of Mrs C, in his capacity as her current financial advisor.

But I must explain that, although Mr R represents Mrs C, the complainant here remains Mrs C. Mr R brings the complaint on Mrs C's behalf in the same way that other consumers might instruct a solicitor or accountant to represent them in a complaint. But this does not entitle Mr R to air his own opinions about SJP, because he is not its customer. This is Mrs C's complaint, and Mr C's role is limited to putting it forward for Mrs C.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

If the available evidence is incomplete and/or contradictory, we reach our findings on what we consider is most likely to have happened, on the balance of probabilities. That's broadly the same test that the courts use in civil cases.

The starting point here is the point-of-sale documentation from 2023. The value of such documents is that they're contemporaneous; so they should reflect what was said and agreed at the relevant time. They're not fool-proof, of course; it's always possible information might be recorded incorrectly. But unless there's a compelling reason to believe the information is inaccurate, we'll generally attach some weight to it.

It appears to be common ground that Mrs C's options in 2023, when the advice was given, were realistically limited to three alternatives; these were, either:

- Remain in her current home and take the new mortgage with A as recommended.
- A home reversion plan. or
- Sell her current home, then believed to be worth about £3m, and move to a lower priced property.

It's also recorded, in the point-of-sale documentation I alluded to earlier, that both a home reversion plan and selling and downsizing *were* discussed in 2023. Both would have required Mrs C to give up ownership of her current home, and in the case of downsizing give up occupation of it. I have concluded that Mrs C's expressed desire not to do either of those things was, therefore, taken into account when the recommendation to re-mortgage with A was given.

Her physical frailties notwithstanding, Mr R has described Mrs C as "formidable". That suggest to me that Mrs C knows her own mind, so to speak. That being the case, it seems reasonable to me that Mrs C's recorded preference of retaining ownership and occupation of her own home was something to which SJP's advisor should have attach some considerable weight. The provision of advice and a recommendation is all about identifying and meeting a consumer's objectives. Here, it seems, continuing to own and live in her home was one of Mrs C's objectives.

In essence, therefore, what this case turns on is whether Mrs C expressed that preference in a wider context than that in which it has been taken. Mr R argues, with some force, that what Mrs C really wanted was to own, and live in, a home of her own (as distinct from moving into residential care) but *not necessarily the home she owned and lived in at the time*. This, Mr R, reasons, would not have precluded downsizing.

I've thought very hard about this point, and what Mr R has said in support of it, in his submission of 11 November 2025. Whilst I appreciate this will not be welcome, overall, I'm not sufficiently persuaded by the argument to change the outcome of the complaint. I'll explain why.

Firstly, I take Mr R's point about the funding realised by the re-mortgage being finite, but the fact that was noted in the point-of-sale documentation means Mrs C was aware of that. Secondly, given what Mr R has said about Mrs C's mental acuity, and keeping in mind the finite nature of the solution, if her preference to remain in her own home covered not just her current home but another one that she might move to, it's not unreasonable to conclude that she (or her daughter who was with her) would have said as much, and it would have been recorded in the point-of-sale documentation.

Insofar as that is not the case, Mr R's argument that Mrs C's preference, as recorded, can be inferred as referring to a successor property as well as the present one is just that, an inference. I accept that this being what Mrs C really meant is possible; but being possible isn't enough. The best I conclude is that it is equally as likely as it is not, but being equally likely wouldn't be enough either. Mr R's alternative interpretation of SJP's record of Mrs C's preference has to be *more* likely than the original that was relied on when the recommendation was given. I'm not persuaded that test has been met.

Going back to what I said earlier, I'm not persuaded that there are grounds for me not to rely on the point-of-sale documentation as reflecting what was discussed and agreed, prior to the recommendation to re-mortgage with A being made.

I know this isn't the outcome Mrs C wanted. She is faced with the prospect of selling and downsizing at short notice, in order to raise funds for her continuing care. That's a horrible situation for Mrs C to be faced with, and she has my sympathy. But for all the reasons I've explained, I can't find that SJP mis-sold her the equity mortgage with A in 2023.

My final decision

I don't uphold this complaint. My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 5 January 2026.

Jeff Parrington
Ombudsman