

The complaint

Miss D has complained about a mortgage she took out in 2006 following advice from Mortgage Advice Bureau Limited (“MAB”).

What happened

Miss D took this mortgage out in 2006 through MAB to remortgage a property she had purchased in 1994. She borrowed around £57,000 (including fees) on an interest only basis. At some point it seems Miss D might have taken a further advance on her mortgage as a product transfer offer from 2014 shows her borrowing had increased to around £67,400. The mortgage is secured on Miss D’s home, which is a leasehold property.

In 2022 Miss D spoke to her mortgage lender. She’s said she was out of work and knew she was beginning to struggle financially so she “applied to release equity”. She’s said she was excluded from releasing equity on the grounds that her property was leasehold.

Miss D complained first to her mortgage lender. She then later complained to MAB about the advice she’d been given when she took out the mortgage in 2006, saying she wasn’t told at the time she took it out that having a leasehold property would stop her from releasing equity in the future. This complaint just relates to MAB; we’ve dealt with a separate complaint about the mortgage lender.

Our Investigator dealt with the complaint as it was understood at that time, which was that Miss D wanted an equity release (otherwise known as a lifetime) mortgage in 2022, but the lender in question (which was part of the same banking group as her existing mortgage lender) didn’t offer equity release mortgages on leasehold properties. Our Investigator didn’t uphold the complaint, saying that MAB had no way of knowing in 2006 that Miss D would later want an equity release mortgage, and that a lender would say no.

Miss D didn’t agree, and after some back and forth with our Investigator Miss D said we’d misunderstood her complaint. She said she wasn’t after a lifetime (equity release) mortgage; she just wanted to release some of her equity to ease her financial hardship at the time.

Our Investigator spoke to Miss D over the phone to clarify what she had asked her lender for in 2022 and explained the confusion with the terminology. From this our Investigator understood that Miss D wanted additional borrowing from her existing lender so she looked at the complaint again on that basis. Our Investigator said additional borrowing isn’t usually available to cover existing financial difficulties. She said an affordability assessment would be done to ensure a borrower could afford both their existing monthly payment and the new payment for the additional borrowing, and based on what Miss D had said she wouldn’t meet that requirement. Our Investigator said as the request in 2022 was based on a change in Miss D’s circumstances, MAB couldn’t have advised on the potential of that scenario in 2006. She also said a complaint about the fact Miss D had an interest only mortgage, with no means to repay it, had been made too late under our rules so couldn’t be considered.

Miss D didn’t agree, saying MAB breached its duty of care by not telling her in 2006 that her mortgage lender wouldn’t allow her to dip into any equity that may accrue over the term. She

said both complaints are the same, just different terminology, and she wanted both to be considered.

Our Investigator said the complaint would be passed to an Ombudsman to decide. She explained again about the confusion in terminology. She also said that Miss D having a leasehold property wasn't a barrier to Miss D obtaining additional borrowing on her existing mortgage, but because Miss D had said she couldn't afford her existing mortgage payment then it was unlikely her lender would lend her more money as that would increase her payment.

Miss D responded saying "I was emphatically, told that because my mortgage was, 'lease hold' in 2022, i could not 'dip' into my equity? I was not asking for an advance, neither was I asking for an equity mortgage."

As an agreement couldn't be reached, the case was passed to me to decide.

Information about the types of mortgages

Having reviewed the full file it seems there has been confusion over what Miss D wanted when she spoke to her lender in September 2022 which led to this complaint being made.

It seems Miss D's lender both when she made the request and then the subsequent complaint to it about the matter, as well as MAB when she complained to it, thought Miss D was asking for an equity release (otherwise known as a lifetime) mortgage in September 2022.

That was also the belief of the Financial Ombudsman Service when the complaints were referred to us. But from Miss D's recent correspondence it seems what she wanted from her lender was a further advance (that is, borrowing more money on her existing mortgage). Or even something else entirely.

Due to the confusion, I think it is best, before I go any further, to set out the details of the different mortgages so it is clear what I am deciding and why.

Standard mortgage

Miss D has a normal residential mortgage. For ease I will refer to this as a "standard" mortgage. Standard mortgages are available:

- On both leasehold and freehold properties.
- To people aged 18 and over and lenders often have a maximum age they must be repaid by.
- On either an interest only or repayment basis, or a combination of the two.
 - Interest only means just the interest is paid each month and the balance remains outstanding and has to be repaid as a lump sum at the end of the term. A customer could do that in different ways, such as (this list isn't exhaustive):
 - selling a second property they own,
 - selling the property the mortgage is secured on and either downsizing or moving to rented accommodation,
 - setting up a savings or investment plan to build up the funds to repay the debt, or
 - using a lump sum from a pension.
 - Repayment means each monthly payment covers the interest charged that month as well as an extra amount that goes towards repaying the debt. Each month the

mortgage balance reduces and, if all payments are made in full and on time, the balance is repaid at the end of the term.

If a customer has a standard mortgage and they want to borrow more money (or as Miss D has referred to it “release equity from their property”) then they can apply for a further advance (or as our Investigator called it, additional borrowing). The bullet points above remain the same for further advances.

Equity release mortgage

Having reviewed everything it seems that Miss D’s lender thought she wanted an equity release mortgage when it spoke to her in September 2022.

This is a different thing to “releasing equity” by taking a further advance on a standard mortgage. An equity release mortgage is a distinct product that is available to older customers (normally aged 55 and over). More information about equity release mortgages can be found at <https://www.equityreleasecouncil.com/>.

A customer doesn’t usually have to make any payments towards an equity release mortgage, instead the interest rolls up each month (increasing the balance of the debt owed) and the mortgage is then paid back when the customer moves out – for example, to go into a residential / care home – or after they’ve died.

Lenders don’t offer hybrid options. A customer can’t have a standard mortgage and then take further borrowing as an equity release, it is either one or the other. If a customer wants further borrowing but doesn’t want to make any monthly payments to it, then (if they meet the eligibility criteria and it suits their needs) they would need to fully remortgage with an equity release mortgage lender.

Other points

Miss D’s recent submission was “I was emphatically, told that because my mortgage was, 'lease hold' in 2022,i could not 'dip' into my equity? I was not asking for an advance, neither was I asking for an equity mortgage.”

If Miss D doesn’t want a further advance on her existing standard mortgage or an equity release mortgage, then the only other way she can access her equity is to sell her property.

Whilst Miss D owns the property (with a mortgage being held on it), a property is an illiquid asset and the difference between the value of the property and the mortgage held on it (the equity) is just a number on paper as it is tied up in the property. That equity can only be accessed through borrowing money against the property (which would be a further advance on Miss D’s standard mortgage, or a new equity release mortgage) or by selling the property.

If Miss D wants to dip into her equity she will, in effect, be borrowing that money, and if she borrows that money the mortgage amount she owes will increase and would be subject to a formal application. The only other way she can access the equity is that she sells the property. There is no third option.

As there isn’t an option for Miss D to access the money (unless she sells her property) other than an application for a further advance on her current mortgage with her existing lender or for her to remortgage (whether that be another standard mortgage or an equity release mortgage) then I will consider the complaint on the basis that Miss D feels MAB should have discussed those two options with her in 2006.

As I thought there was also a separate complaint about whether Miss D should have been advised to take out an interest only mortgage in 2006 then I also included that point. That led me to issue a decision setting out my jurisdiction to consider the complaint. In that I said:

“My decision is we can’t consider a complaint about the advice MAB gave Miss D in 2006 to take out an interest only mortgage because that complaint wasn’t made in time.

We can, however, consider Miss D’s complaint that MAB should have told her in 2006 that having a leasehold property may be problematic if she wanted to access her equity in the future.

My findings on that part of the complaint will follow in a separate 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.

Did MAB do anything wrong in 2006 in not advising Miss D that she might not be able to get an equity release mortgage in the future?

The contact notes from 2006 indicate MAB believed Miss D was going to sell the property at the end of the term to repay the mortgage, which is supported by what Miss D told our Investigator in that she said she intended to possibly move abroad but Brexit put a stop to that.

Nothing Miss D has said indicates she told MAB, when it was giving the advice in 2006, that she intended to repay the mortgage by taking an equity release mortgage in the future. A broker can’t cover every eventuality when giving advice. Unless Miss D explicitly told MAB that she intended to repay the mortgage by taking an equity release mortgage in the future I wouldn’t have expected it to discuss that with her, and there was certainly no regulatory requirement for it to do so at that time.

In any event, the barrier Miss D has referred to is that she has a leasehold property and one specific lender (which is part of the same banking group as her current lender) won’t lend to her because of that, but that doesn’t mean other equity release lenders would refuse to lend. Each lender has its own lending policy, and it would be wrong to say Miss D would be unable to get any equity release mortgage just because her property is leasehold as many lenders would have no issue with that.

So I wouldn’t have expected MAB to tell Miss D that she wouldn’t be able to get an equity release mortgage in the future, just because her property is leasehold, as that wouldn’t have been true. Having a leasehold property isn’t a barrier to getting an equity release mortgage, even if not all lenders will agree to lend.

Did MAB do anything wrong in 2006 in not advising Miss D that she might not be able to get a further advance on her standard mortgage in the future?

As I said earlier in this decision, at some point it seems Miss D might have taken a further advance on her mortgage as a product transfer offer from 2014 shows her borrowing had increased by around £10,000. It may be the mortgage balance increased for a different reason, so I’m not deciding this part of the complaint based just on that increase in balance.

Miss D’s lender grants standard mortgages to be secured against leasehold properties. It lent to Miss D in 2006, secured against her leasehold property as that is the mortgage she

holds, and it continues to lend secured against leasehold properties. That is the case for both a main mortgage and any further advance that might be requested; having a leasehold property isn't a reason why Miss D's lender would choose not to lend. There was never a period where having a leasehold property would have been a barrier to Miss D's lender lending her more money. There may have been other reasons why it wouldn't lend, but the fact her property is leasehold wouldn't, in itself, mean her lender would say no.

It seems the confusion came about because Miss D's lender thought she was asking about an equity release mortgage, which its sister company doesn't grant on leasehold properties. Her lender didn't realise she was asking to "release equity", that is take a further advance, on her standard mortgage. Had it realised that is what she was asking for then it wouldn't have said that her having a leasehold property was a problem, because it wasn't.

So I wouldn't have expected MAB to tell Miss D that she wouldn't be able to get a further advance on her standard mortgage in the future, just because her property is leasehold, as that wouldn't have been true. Having a leasehold property isn't a barrier to getting a further advance with Miss D's lender.

Summary

Whilst I've a great deal of sympathy for the situation Miss D found herself in, much of this complaint seems to have come about due to a misunderstanding with the terminology used.

I can reassure Miss D that having a leasehold property isn't a barrier to getting a mortgage, in fact most flats are leasehold properties and many of those will have mortgages held against them. There may be some issues that can prevent lending, such as high ground rent and service charges, or a short lease, but those don't seem to be an issue here.

It is unfortunate that there seemed to be a misunderstanding between Miss D and her lender of what she was asking for in September 2022, and that the only equity release lender that an enquiry was made to doesn't lend on leasehold properties, leading Miss D to believe her having a leasehold property was such a concern it needed to be highlighted by the broker in 2006.

Having considered everything very carefully, I'm satisfied MAB didn't do anything wrong in 2006 by not discussing with Miss D the issues she has mentioned in respect of having a leasehold property as they're not the barrier to future lending that she seems to think and so there would have been no reason to mention them.

All lending is subject to application and underwriting at the time and can't be guaranteed, but I can reassure Miss D that owning a leasehold property isn't – in itself – an issue. Outside of a few lenders (such as the equity release provider that the enquiry was made to), many lenders lend mortgages secured on both leasehold and freehold properties.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 17 February 2026.

Julia Meadows
Ombudsman