

complaint

Ms M through her solicitors AA complains that Fairstone Financial Management (City) Limited gave her negligent advice and mis-sold her a mortgage. She wants compensation.

background

Ms M wanted to re-mortgage to reduce her monthly payments and took advice from Fairstone. AA said Fairstone wrongly advised Ms M to consolidate all of her debt into her mortgage, take out an interest-only mortgage and reduce its length so it ended when Ms M reached the statutory retirement age, not when she intended to retire. It said Ms M didn't understand the consequences of the advice and it wasn't suitable.

AA complained to Fairstone, who said Ms M was spending more than she earned, had significant debt, and was advised in detail about the options available. It pointed out Ms M knew she was taking out an interest-only mortgage and said she planned to repay it by selling her property. She even signed documents confirming this. Due to the remortgage, Ms M's outgoings dropped considerably. Fairstone thought if Ms M had continued with the monthly payments as planned, due to the drop in interest rates, she would've been overpaying her mortgage and reduced the mortgage without penalty. It said it recommended a repayment mortgage, but Ms M chose interest-only as she wanted to pay as little as possible.

AA complained to us. The adjudicator's view was that Ms M wanted to reduce her outgoings and consolidate most of her debt. She rejected Fairstone's advice to have a repayment mortgage as she wanted to pay as little as possible, but did have the consequences of consolidation and the need to repay the interest only mortgage explained clearly to her. The adjudicator thought if Fairstone had refused to allow Ms M to take out the interest only mortgage, she'd have gone elsewhere to get it.

AA disagreed. It said Ms M relied on what she was told, not what she was sent in writing. AA said Fairstone didn't advise her about the possibility of taking out a mortgage which was a mixture of repayment and interest only, and it wasn't necessary to consolidate all of her debts. AA denied Ms M would've gone elsewhere if Fairstone had refused to help her take out an interest only mortgage – it said she simply chose her preferred option offered to her, but did follow the advice given.

my findings

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

I think it's more likely than not Ms M wanted to pay as little as possible each month for her mortgage, and did want to consolidate most, if not all of her debts. Fairstone gave her clear advice about the effects of consolidation, and I think if Ms M didn't want to include all of her debts, she could've chosen to borrow less. And as Ms M felt able to ignore the other advice given, I think it's reasonable for me to think she would've said she wanted to borrow less if that was her view at the time.

Fairstone gave Ms M very clear advice that she should take out a repayment mortgage for the same length of time as her mortgage at the time. Ms M rejected that advice as she said she wanted to pay as little as possible. To do that, she needed an interest only mortgage. I don't think it was unfair or unreasonable for Fairstone not to have discussed the possibility of a mixed repayment and interest only mortgage given this clear position. There's no evidence such a mortgage was available at that time to Ms M anyway.

I agree that it's more likely than not once Ms M chose the interest only option, the term had to be shortened as the lenders wouldn't give interest only mortgages for longer. There's no evidence it was shortened to avoid Ms M having to get a letter from her employer. Ms M knew the term was shorter and agreed to it. I think she understood the need to repay the mortgage when it ended, as shown by her repeated statement she would sell the property. I appreciate AA says Ms M listened to what she was told, but there's no evidence she was told anything different to what was put in writing and signed by her.

AA says Ms M feels Fairstone should've offered her a review of her position knowing her only repayment plan was to sell the property. But Fairstone did repeatedly tell Ms M she should have a repayment mortgage, and that she should come back for a review.

I think the mortgage was suitable for Ms M's needs and the various issues clearly explained to her by Fairstone. I think it was reasonable for all of the debt to be consolidated so Ms M could maximise the amount she could overpay into the mortgage. It's not clear why Ms M didn't overpay the mortgage when interest rates dropped in order to reduce the capital balance when her debts had been consolidated.

But I thought about whether Fairstone should've refused to help Ms M take out the mortgage, despite its clear advice. I agree it's more likely than not Ms M would've got the mortgage from elsewhere, but that isn't enough to justify letting a consumer go ahead with an unsuitable product. I don't think the mortgage was unsuitable given Ms M's needs and objectives, particularly as it could be overpaid without penalty. It's fair and reasonable to explain options to a consumer clearly and let them go ahead with a suitable option.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 29 April 2016.

Claire Sharp
ombudsman