

complaint

Mr H complains about unsuitable mortgage advice given by Rozario Harris & Co Ltd (Rozario Harris).

our initial conclusions

Our adjudicator didn't recommend the complaint should be upheld. He considered the advice to have been suitable and to have met Mr H's needs. Mr H disagreed and asked an ombudsman to review the complaint. In summary he says the adviser should have referred him to debt counselling rather than arrange a mortgage for him. Mr H's daughter says that we should work out some formula which would acknowledge Mr H's responsibility for his own actions but which at the same time holds Rozario Harris liable for Mr H now having this mortgage.

my final decision

To decide what is fair and reasonable in this complaint, I have considered everything that Mr H and Rozario Harris have provided.

The report prepared by Rozario Harris in October 2006 is comprehensive and discusses in detail Mr H's financial circumstances, wants and needs. There is nothing in the report to suggest Mr H was in any way vulnerable or easily persuaded. He approached Rozario Harris because he wanted to raise money for home improvements, as well as payment of debts incurred by his son. I'm satisfied Mr H made it clear he didn't want to discuss his circumstances with his family – his children were already in debt to him, only one of whom was repaying her debt. Overall I'm satisfied Mr H wanted to raise a mortgage, and the various options discussed with him all appear to be reasonable in the circumstances. After the initial advice for a loan of £25,000, Mr H asked about borrowing a further £5,000. Although Mr H says he had far more in his bank account than his outstanding debts of c.£15,000, the report says he had only £9,600.

I do appreciate that it came as a shock to Mr H's family to learn that he had this mortgage, but I'm not persuaded that it was mis-sold or that the advice to take it out was unsuitable.

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr H either to accept or reject my decision before 19 August 2013.

Jan O'Leary

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

The advice given covers whether or not an equity release mortgage would be suitable (Mr H did not want compound interest eroding his equity), the possibility local authority grants might be available for the home improvement works, and whether there might be implications for Mr H on his entitlement to any benefits if he took out a mortgage.

The report is extremely comprehensive and covers everything I would expect the adviser to address. At the time he approached the broker, Mr H was not suffering severe financial hardship or unable to pay his existing debts, so there was no reason for him to be referred to debt counselling. His intention was to reduce his monthly outgoings and raise extra capital, and the advice given achieved those objectives.

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.