complaint

Mr and Mrs P complain through their daughter Mrs R that Key Retirement Solutions Limited recommended an equity release product for them in 2008 that was unsuitable. Mr and Mrs P would like to have the mortgage cancelled and interest and charges repaid.

background

In 2008 Mr and Mrs P were aged 70 and 71. They had a mortgage free home and a shop and a flat. They had a number of debts including a personal loan and a credit card and a debt to a colleague. So, to pay these off, Mr and Mrs P wanted to access just over £80,000. Although the suitability letter from Key recommended that they shouldn't proceed with equity release, they went ahead in any case. Mrs R says that Mr and Mrs P should have been directed to a debt counselling agency or recommended a home reversion scheme.

Our adjudicator didn't recommend that this complaint should be upheld as she didn't believe that Key had done anything wrong. Mr and Mrs P disagreed saying in summary that at this time in 2008 they had an immediate need for money and believed that they had no other option but to take out the equity release mortgage.

my findings

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

Mr and Mrs P had been self-employed in their working life and in 2008 were retired. According to the Equity Release Questionnaire ("ERQ"), at that time, Mr and Mrs P had an income of £3,294.76 per month and were spending that. The income was comprised of pension income and a rental income from a shop and flat which are recorded as being valued at £330,000. The ERQ says that to service the loan and credit cards that Mr and Mrs P were paying £1,171 per month. So, it records Mr and Mrs P as wanting to pay off these to increase their monthly available income.

Mrs R in her email to us of the 29 June 2019 tells us that the situation was different in that rather than the income being sufficient to pay off the debts as they fell due, Mr and Mrs P were having to find over £1,000 per month to pay off the debts and were in a financial crisis.

Mr and Mrs P would have got the ERQ of November 2008 with the personal suitability report. The personal suitability report also refers to their income as £3,294.76 and that Mr and Mrs P were happy with their current income levels. These documents were shown to Mr and Mrs P so I must assume that they did in fact record what Mr and Mrs P told the adviser. I can only assess Key's recommendations on the information that was available to the adviser at that time which was that Mr and Mrs P could service the loans but it was leaving them with no disposable income.

In the event, Key didn't recommend that Mr and Mrs P take out the equity release mortgage as a means to repay the debts. The adviser quite clearly says that *"I therefore do not recommend that you release funds from your property to repay your liabilities and you repay them from the proceeds of the shop sale."* It then records that Mr and Mrs P were told about the interest accumulation in equity release but that they were *"adamant"* that they wanted to proceed in any case. The adviser having recommended that Mr and Mrs P didn't take out an equity release mortgage then assisted Mr and Mrs P by sourcing a mortgage that would be suitable for Mr and Mrs P.

Mr and Mrs P's stated intention was that when they sold the shop that they would then redeem the mortgage. It follows on that they didn't want a home reversion plan as they wanted the house to remain in their name and Key sourced a mortgage without an early repayment charge. I'm not sure why the plan to redeem the mortgage didn't happen.
I assume that the interest on the mortgage has since eaten into the equity in their home but presumably this could have been avoided had Mr and Mrs P sold the shop and discharged the mortgage as seems to have been their original intention.

Mrs R in the complaint form says that Key didn't advise Mr and Mrs P to seek debt help from a more specialised debt counselling service. Key specialises in advising on equity release products and is not a debt adviser or debt referral agency. So, I can't fairly criticise Key for not providing an advice service that it didn't hold itself out as providing. Where a customer wishes to consolidate debt into a mortgage we expect to see the equity release adviser make a close examination of the proposal and provide a series of warnings. In this case that included a warning not to take out the product which seems appropriate. So, I don't see that Key has done anything wrong particularly when Mr and Mrs P appeared to have had a clear strategy to exit the mortgage. The fact that this strategy wasn't followed doesn't appear to be the fault of Key. For the above reasons I can't fairly uphold this complaint.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 10 October 2019.

Gerard McManus
ombudsman