

complaint

Miss S complains that Wise One (UK) Ltd recommended an unsuitable mortgage and caused her financial loss. She wants compensation, both for her financial losses and the trouble and upset she suffered.

background

Miss S wanted to buy a property, with the help of a loan from a housing association; this is known as “shared equity”. She also needed a mortgage and took advice from Wise One, a broker, who recommended a mortgage to meet her needs. Miss S paid fees after being told by Wise One she could get a mortgage, but said she was later told by her solicitor that the mortgage wasn’t suitable. Wise One had recommended a 40 year term and got a mortgage offer for this term, but Miss S said that the lender would only lend for 25 years due to the housing association loan. Miss S said that the only mortgage which was suitable needed more money each month than she was able to pay, so she lost the property and the money she’d paid in fees.

Miss S complained to Wise One. It said that it wasn’t told until after Miss S’ solicitor had received contracts from the housing association that it – the housing association - was going to give Miss S a loan for 25 years. But the lender required that loan to last for the same length of time, or more, than the mortgage. This mean it wouldn’t give her a 40 year mortgage. Miss S couldn’t afford a 25 year mortgage, but she could afford a 40 year one. Wise One felt that it had recommended a suitable mortgage, and wasn’t at fault. It said Miss S had said the arrangement was similar to a “Help to Buy” arrangement, where a 40 year mortgage was allowed.

Miss S complained to us. The adjudicator’s view was that based on the initial information from Miss S, Wise One thought the purchase was similar to the Help to Buy scheme. But in reality, the purchase wasn’t similar as far as the lender was concerned, but that was what Miss S told Wise One. The adjudicator said Wise One didn’t know the correct structure of the purchase, particularly as Miss S had completed Help to Buy paperwork. He didn’t think Wise One was at fault.

Miss S disagreed. She said that she was a first time buyer and Wise One should’ve carried out more investigation before getting a mortgage offer. Miss S said she completed the Help to Buy paperwork on the instructions of both the housing association and Wise One.

my findings

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

It’s clear from the evidence that Miss S was buying a shared equity property with the assistance of a 25 year loan from the housing association. Such a scheme is different to the Help to Buy scheme, and different lending policies are applied by lenders to such schemes.

The question I need to decide is whether Wise One was at fault for not knowing the correct position so it could then recommend a suitable mortgage. It knew the scheme wasn't a formal Help to Buy scheme, but was told by Miss S that it was similar to such a scheme. Miss S even completed the forms for a Help to Buy scheme to buy the property, which was provided by the housing association. Based on the evidence before me, I think Miss S believed she was entering into a scheme similar to Help to Buy, and it's more likely than not that this was because she was told this by the housing association.

I also think it's more likely than not that Wise One tried to get more information from the estate agent acting for the housing association. I think it didn't get the full details as there's little evidence about what the estate agent said. There also appears to be nothing available in writing setting out exactly how the scheme worked so Wise One could advise on a suitable mortgage for the purchase Miss S was trying to make.

In these circumstances, was Wise One acting fairly and reasonably when it decided to follow the instructions of Miss S and treat the scheme as being similar to a Help to Buy scheme when recommending a mortgage to her? It asked Miss S for information and it contacted the estate agent. I think it genuinely believed the scheme was similar to a Help to Buy scheme. I don't think Wise One was acting unfairly or unreasonably as it was acting in good faith.

I haven't been told why the seller didn't clearly set out the basis of the sale to Miss S or Wise One. The fact that the housing association was giving Miss S a loan was very relevant to a mortgage application, but Wise One wasn't told that the loan would only last 25 years. I don't think it's fair or reasonable for me to expect advisers to carry out in-depth enquiries about a sale if it is told by the consumer that a scheme is similar to a Help to Buy scheme, and it contacts the estate agent to confirm.

And I don't think there was anything to put Wise One on notice that there was a loan from the housing association to consider when advising on a suitable mortgage. I appreciate that Miss S was a first time buyer, and told Wise One that this was a shared equity deal, but she also accepts that it was her responsibility to tell Wise One all the relevant information. Miss S says Wise One should've investigated, but a broker isn't required to investigate the transaction – it's required to recommend a suitable mortgage based on the information provided by the consumer. I think Wise One wasn't told the housing association's loan could only last 25 years until Miss S' solicitor raised the issue after it recommended a mortgage.

I agree Wise One knew Miss S couldn't afford a 25 year mortgage, which is why it recommended a 40 year one. But given the information it had, I can't say it acted unfairly or unreasonably in recommending the mortgage which it did. I also note that it was Miss S' solicitor who spotted the condition in the mortgage offer. The condition was based on the lending policies of the lender, but I wouldn't expect a broker to know every single policy of a lender, particularly as some are kept confidential.

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 Miss S to accept or reject my decision before 23 January 2017.

Claire Sharp
ombudsman