DRN-3745947

The complaint

Mr and Mrs M's complaint is about a third charge mortgage they were advised to take in 2019 by Bright Star Financial Limited (BSF). They believe that they should not have been sold the loan because it wasn't affordable; they had a significant amount of unsecured debt; and the money was to be used for non-essential building works. The complaint to BSF also included concern that they hadn't been told to consolidate their unsecured credit.

What happened

Mr and Mrs M received advice from BSF in January 2019. They wanted to borrow £25,000 to top up their savings so they could afford to complete a loft conversion. At the time they had existing interest-only borrowing against their property of £540,000. They wanted the new borrowing on a repayment basis.

BSF asked Mr and Mrs M about their incomes and outgoings. This included a discussion about Mr M's commission earnings, and it was confirmed that much of the monthly amount was guaranteed because it was based on historic sales and would be ongoing. The cost of Mr and Mrs M's unsecured debts were included in the assessment of their finances and BSF determined that they had a disposable income of over £2,600 each month. Mrs M said that they had historically not been very good with money, having moved from product, to product, to product. She then confirmed that despite this, they'd always maintained and paid everything. Plans for the longer term were also discussed - that once the loft was done, they would look at amalgamating the second and third charge borrowing. This included possibly changing it all to a repayment basis, as Mr and Mrs M were aware that they weren't currently paying off the exiting mortgage debt and were getting older.

A repayment mortgage of £25,000 over a term of 15 years was recommended. The application was accepted by the lender.

In January 2022 Mr and Mrs M contacted BSF and complained that the mortgage it sold them was unaffordable. They told BSF that they'd only made five full monthly payments to the mortgage, and this had been made by borrowing money from elsewhere.

BSF responded to Mr and Mrs M's complaint in a letter dated 15 March 2022. It initially highlighted that while it had given them the advice to take the mortgage, the ultimate decision for approving the mortgage was the lender's. BSF then went on to explain the advice process. It was satisfied that based on the information it had been given and obtained, that the mortgage was affordable. In relation to the 'red flags' Mr and Mrs M highlighted about their circumstances, BSF didn't agree that they were matters that meant that the new mortgage was not advisable.

Mr and Mrs M weren't happy with BSF's response and referred their complaint to the Financial Ombudsman Service. One of our investigator's considered the complaint, but he didn't recommend that it be upheld.

Mr and Mrs M didn't accept the investigator's opinion and asked that the complaint be referred to an ombudsman. They said they disagreed that previous payday loans and the fact that the mortgage was a third charge against their property didn't represent red flags that meant the mortgage shouldn't have been recommended. They also quoted comments made by the investigator who had considered the same complaint against the mortgage lender. They maintained that the mortgage had been unaffordable, and their financial circumstances should have made BSF conclude that it shouldn't recommend further borrowing.

In addition, Mr and Mrs M questioned the references our investigator had made to the complaint about the mortgage lender, as they'd been told that previous decisions did not set a precedent. They also said that the lack of affordability of the mortgage was evidenced by the fact that Mrs M took out a personal loan in March 2019. She also highlighted that a complaint about this loan being unaffordable had been upheld by this service.

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.

I would initially confirm that it is the role of a broker is to recommend a suitable financial product for a consumer's needs, taking account of their circumstances. That process is very dependent on what that customer tells the broker and them being open about their circumstances. It would not be for a broker to tell a customer what they should borrow money to pay for. Although it would be for the broker to advise against borrowing if it was not affordable or unsuitable for other reasons.

So where a customer has unsecured debts that they don't want to consolidate, those debts are being adequately serviced, and the existence of the debts doesn't cause issues with the plans the broker is being asked for advice about, I wouldn't expect to see a broker recommending consolidation. Indeed, consolidating such debts can extend the period the debts are payable over and, therefore, increase the costs associated with them. Also, increasing the level of secured debt can have more significant consequences if financial difficulties are experienced down the line, in comparison with those if the debts are not secured.

That said, BSF had a duty to make suitable recommendations, based on Mr and Mrs M's requirements and circumstances. In relation to the affordability of the mortgage, it carried out an assessment of their income and expenditure, which showed that the mortgage was affordable. While Mr M's commission was taken into account, the fact that it was received consistently and would be for at least the following two years, based on Mr and Mrs M's explanations, would indicate that it was not an unreasonable decision. The information BSF was given indicated that there wouldn't be any issues with affordability if the new mortgage was taken. That said, it was ultimately the lender's decision whether to grant the mortgage and its assessment of affordability that was key, not that undertaken by BSF.

Mr and Mrs M have raised points about their circumstances that they think mean that BSF shouldn't have recommended the mortgage. These being that they had a significant amount of unsecured borrowing, already had a second charge loan and had historically taken payday loans.

I would agree with Mr and Mrs M that before making a recommendation BSF should have taken account of their wider circumstances and financial history. However, the simple existence of a historic payday loan would not be sufficient to say that a consumer should not be recommended further borrowing. Indeed, as our investigator highlighted, the last payday loan had been taken in 2017, quite some time before the advice was given and I don't consider that it made the advice in 2019 inappropriate.

As for the existing borrowing, both secured and unsecured, I am not persuaded that its existence should have automatically meant that further borrowing was inadvisable or unaffordable. The nature and timing of that borrowing needed to be considered. As Mr and Mrs M said to BSF, while they may not have chosen the best options in the past, they had always maintained their arrangements and no payments had been missed. There doesn't appear to be anything about the existing borrowing that would suggest the financial difficulties Mr and Mrs M have now said they were in. Indeed, if they were in such difficulties, they didn't mention it to the adviser.

While I know this will disappoint Mr and Mrs M, I am not persuaded that the advice BSF gave them in 2019 was inappropriate, based on the information it had.

My final decision

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 and Mrs M to accept or reject my decision before 7 April 2023.

Derry Baxter
Ombudsman