

complaint

Mr and Mrs N complain they were mis-sold a mortgage by an appointed representative of Legal & General Partnership Services Limited.

background

Mr and Mrs N had a mortgage. In 2005, they took advice from L&G. As a result they re-mortgaged to another lender. They also consolidated some unsecured debt.

They're now represented by a claims management company (CMC). The CMC says the mortgage advice was unsuitable. It says they shouldn't have been advised to move lender or consolidate their debts, especially as they paid an early repayment charge (ERC) to their existing lender. And it says L&G over-charged them. It recommended adding the cost of wills advice to the mortgage and told them they had to use a particular solicitor.

L&G didn't agree the mortgage was unsuitable. It said Mr and Mrs N had substantial unsecured debts and needed to reduce their outgoings, which the consolidation achieved. It said they'd been advised to wait a year until the ERC period expired. But they insisted on going ahead. It said they didn't purchase a will. But it has since offered to refund commission the broker received from the solicitor it recommended, together with £100 compensation, which the CMC has now accepted.

Our adjudicator didn't recommend upholding the complaint, so the CMC asked for an ombudsman to make a final decision.

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've looked at the fact find L&G completed in 2005 to try and understand Mr and Mrs N's circumstances. The CMC says it underestimates their net income, but according to their payslips from the time I don't think it does. And as I have no other evidence of their finances at the time, I accept it as being broadly accurate.

The fact find shows that Mr and Mrs N had large unsecured debts. They had eight credit cards, with balances totalling around £30,000. A couple of the cards were on introductory 0% interest rates, but the others weren't. Mr and Mrs N were paying around £1,100 each month in credit card payments alone. While they could have reduced those payments, doing so would have significantly increased the interest they paid and the time taken to clear the balances. They also had £36,000 outstanding on four personal loans and credit agreements, costing around £950 per month. This meant they were paying rather more than their mortgage payments towards their unsecured debt each month.

Together with the mortgage, their debts were costing them almost £3,000 per month to service. Their other recorded expenditure left them with no surplus each month – and they had been using overdrafts. Consolidating the debts into the mortgage reduced their repayments from £3,000 to £1,750. Given the state of their finances at the time, I don't think this was unsuitable advice. Although it secured their unsecured debt against the property, and meant it would take longer to pay off, it significantly reduced their monthly outgoings – which I think was their priority and their need at the time.

This conclusion is supported by the declaration they signed at the time. It acknowledges that L&G advised them to wait until the ERC expired before re-mortgaging – expenditure was tight but manageable so that was possible. But Mr and Mrs N insisted against that advice on going ahead despite doing so meaning they'd pay the ERC.

The CMC says they could have approached their existing lender instead. That may be true, but there's no certainty their existing lender would have given them a further advance. And if L&G had recommended and arranged a further advance, it would still have charged for its services. And a further advance on their existing mortgage wouldn't have changed their mortgage from part interest only to repayment – which was recorded as another of their priorities in another signed note.

Taking all that into account, I think the advice to re-mortgage and consolidate debt was suitable. And I think Mr and Mrs N were advised not to incur the ERC, but insisted on doing so anyway. So I don't uphold the complaint about the suitability of the mortgage L&G arranged for them.

There's no evidence on L&G's file that Mr and Mrs N purchased wills advice with any of the mortgage funds, and the CMC hasn't provided any evidence otherwise. The instruction to pay a wills advice fee is crossed out on the authorisation form. On balance, I don't think they did take or pay for wills advice at that time. The other fees they paid are set out on the authorisation form.

While other brokers may have charged lower fees, L&G clearly set out the charges for their services and Mr and Mrs N agreed to pay them in return for the mortgage advice. So I don't uphold this part of the complaint either. This mortgage didn't include free legal advice as an incentive – and while others may have done, this was the overall the cheapest mortgage available. I note the CMC has accepted L&G's offer in respect of the solicitor's commission, and I don't think L&G is required to take any further steps to settle this complaint.

my final decision

For the reasons I've given I think the offer Legal & General Partnership Services Limited has made to settle this complaint is fair and reasonable and I don't require it to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs N to accept or reject my decision before 9 January 2020.

Simon Pugh
ombudsman