

complaint

Mr F complains he was badly advised by Legal & General Partnership Services Limited. He says he was mis-sold a mortgage at the end of 2005 as the advice to consolidate his unsecured debts into an interest-only mortgage was unsuitable. Mr F is represented in his complaint by a complaint management company, A.

background

Mr F spoke to L&G in November 2005 about his mortgage arrangements. At that time, his existing mortgage was on a capital repayment basis and was on a fixed rate. Mr F also had a secured loan, four unsecured loans and three credit cards. It is documented that he was paying £2,105 each month on these commitments and wanted to reduce this amount.

L&G advised Mr F to take out a new mortgage with a new lender. The new mortgage was for more than his existing one. This was to allow Mr F to release money to pay of his secured loan and credit cards. The new mortgage was recommended on an interest-only basis on a rate that was fixed for the first two years. This was to make the mortgage affordable for Mr F and to reduce his monthly outgoings. As the fixed rate product on Mr F's current mortgage was still in force, he had to pay an early repayment charge (ERC) of around £2,000 when he re-mortgaged.

The adviser discussed what repayment vehicles Mr F had to repay the proposed mortgage at the end of the term. A shortfall of around £33,000 was highlighted. The adviser told Mr F there was no guarantee the mortgage would be repaid by the end of the term. They talked about the need for him to review this in the near future. L&G says the plan was to switch back to a repayment mortgage when the situation was reviewed.

Before Mr F's re-mortgage, L&G's records show that after Mr F had paid his mortgage, loans and credit cards each month, he had around £795 left for his normal living expenses. Afterwards, it says this amount increased by £565 each month and increased his disposable income.

In 2016, A complained to L&G, on Mr F's behalf, that the advice to consolidate some of his debts into an interest-only mortgage wasn't suitable. L&G looked into the complaint. It found the advice was suitable. So A brought the complaint to us.

One of our investigators looked at Mr F's case. She didn't think L&G had done anything wrong or that Mr F had suffered financially as a result of the re-mortgage. A disagreed and asked for the case to be passed to an ombudsman.

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 would point out that A, on behalf of Mr F, has made numerous points in support of his complaint. We are an informal service and our rules allow me to focus on what I consider relevant. So if there's something I've not mentioned, it isn't because I've ignored anything – I haven't. As I've already said, I've looked at, and taken into account, everything that's been sent to us. I'm satisfied I've captured the essence of the complaint and I don't need to comment on every individual point in order to reach what I think is the right outcome. I've

focussed on what I think is the key issue here. Namely, did L&G act reasonably by recommending the re-mortgage to Mr F? I'm satisfied it did. I'll explain why.

A has said that L&G made no attempt to check the realistic affordability of the proposed mortgage. I don't agree. Based on the information Mr F gave the adviser, he had around £795 each month to pay for his normal living expenses. I've not been given any details about the make up of these expenses. But for someone in Mr F's situation and circumstances - which included having to pay for the upkeep of his young child - I'm satisfied that £795 is a realistic figure that would have allowed him to meet these costs. So I do think L&G made a realistic affordability assessment.

It's also clear to me that due to the level of debt Mr F had, and that he was only making the minimum payments on his credit cards, he needed to urgently reduce his monthly outgoings. So I need to consider if the advice to consolidate the secured loan and credit cards into an interest-only mortgage was appropriate.

One of Mr F's loans was already secured on his home. Consolidating that into the re-mortgage didn't increase the risk to his home. It did slightly extend the term the loan would be repaid over. The loan had 209 months of payments left and the new mortgage was arranged over 20 years. I'm satisfied the slightly longer term would have been offset by the lower interest rate on the new mortgage.

By repaying his credit cards with the re-mortgage, Mr F added about £10,800 to his secured debt. This also meant the period over which he would be repaying the credit cards was now 20 years. That said, he was only making the minimum repayments on the credit cards and, on balance, I think the interest rate on the mortgage would have been lower. Also, Mr F was borrowing close to the maximum amount he could on the new mortgage in relation to the value of his property. So I think the credit cards were the logical choice to be repaid for him to maximise the reduction in his outgoings.

It's important to point out that consolidating these debts into the mortgage wasn't something that should have been done without considering the negative consequences – such as the debt costing more in the long term. L&G has said Mr F didn't lose it out financially by repaying his secured loan and the credit cards. The available evidence doesn't show whether or not the adviser discussed this with him. Even if it wasn't, I don't think Mr F had too many options at this time to reduce his outgoings – and the re-mortgage did reduce his outgoings by around £565 a month.

A has suggested he should have been told to enter into a debt management arrangement rather than consolidate his debts. But on the face of it, Mr F could just about afford his commitments. Debt management plans are designed to help those who clearly can't afford their commitments and, therefore, need to arrange reduced payments to their creditors. In the circumstances, I doubt such arrangements would have been an option for Mr F at the time. While he clearly needed to reduce his outgoings, the available evidence doesn't suggest he wasn't making the repayments on his commitments.

A has also questioned the advice for Mr F to switch his mortgage type from repayment to interest-only. It says any debts added to it would no longer be repaid. I'm satisfied an interest-only mortgage was recommended to Mr F to keep his outgoings as low as possible in the short term. I'm also satisfied this was never intended to be a long term solution or that it was intended to remain on an interest-only basis throughout the whole term. L&G's records show that the risk that the mortgage wouldn't be cleared by the end of the term was

discussed. Indeed, a £33,000 shortfall in Mr F's intended repayment vehicles was highlighted. It was also documented that Mr F wasn't concerned about this because to be able to afford the re-mortgage, interest-only was his only option.

Also, it's clear to me that the plan was for Mr F to review his situation in the future to ensure the mortgage would be paid by the end of the term. Given that Mr F's remaining loans were due to end in late 2010, freeing up a further £1,166 of his income each month, this would have been the logical time to do this. The change to interest-only was designed to give Mr F some breathing space to get his finances in order. Whether Mr F actually took advantage of this breathing space was a matter for him and not down to the advice given by L&G.

But I do need to think about if it was suitable to recommend that Mr F effectively took a break from paying capital off his mortgage and the debts he repaid with it. While this wasn't ideal, there are times when taking a break from paying capital where there are financial difficulties is appropriate. Indeed, many lenders will do this to help a borrower through difficult times. Given the high level of debt Mr F had and that he wanted to urgently reduce his outgoings, I think he was struggling financially. I don't think it was unreasonable for L&G to give him advice that allowed him some time to sort these out.

A has also pointed out that Mr F's debt was increased by having to pay an ERC to redeem his existing mortgage. But as I've already said several times, by this time, he wanted to quickly reduce his outgoings by as much as possible – and I don't think he had many other options open to him. On balance, I think Mr F was happy to pay the ERC rather than delay the chance to reduce his outgoings.

Overall I'm satisfied the advice given to Mr F was reasonable in his circumstances at the time.

my final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 31 July 2017.

John Miles
ombudsman