

complaint

Mr and Mrs B through their representative BF complain that an appointed representative of Legal & General Partnership Services Limited mis-sold them a mortgage. They want compensation.

background

Mr and Mrs B took advice from A, an appointed representative of Legal & General in 2006 about remortgaging. They later took out the mortgage recommended to them. BF said the mortgage was mis-sold as it was too expensive; cheaper mortgages were available and would've been more suitable.

BF complained. Legal & General said that Mr and Mrs B wanted to borrow more money using a flexible arrangement. A didn't recommend mortgages from the cheaper lenders as they wouldn't lend the amount wanted due to Mr and Mrs B's income and the debt consolidation involved. The lender recommended was willing to lend more money than other lenders and on flexible terms, but charged a higher interest rate.

Legal & General pointed out A had set out the reasons for its recommendation in writing, and Mr and Mrs B signed the document to show they'd read it. It had explained the mortgage wasn't the cheapest available. Legal & General also said that Mr and Mrs B wanted to borrow more on a repayment basis to ensure the mortgage was paid at the end (their old mortgage was part repayment and part interest only). This was why they needed to consolidate their debts (pay them using the mortgage) in order to ensure overall that the mortgage was affordable.

BF complained to us, saying the mortgage recommended was too expensive. The adjudicator's view was that the mortgage was suitable. Mr and Mrs B wanted to borrow more money on a flexible basis and pay more of their mortgage on a repayment basis. She agreed the third cheapest mortgage was recommended by A, but accepted that it was more likely than not this was because the cheapest options weren't available in all the circumstances. The adjudicator noted that this was explained in writing to Mr and Mrs B at the time. She also didn't think the advice about debt consolidation was unsuitable, given the overall financial position of Mr and Mrs B.

BF disagreed. It said applications should've been made to the cheapest lenders which came up in the searches carried out by A. It didn't think it was certain Mr and Mrs B needed the extra money for the purposes claimed, and the sale of an insurance policy affected the advice given. BF said the smaller credit card debt shouldn't have been consolidated into the 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. I note in its response to the adjudicator's view, BF has raised new complaints. The complaint brought to this service was simply that the mortgage had been mis-sold because the cheapest mortgages weren't recommended. That has nothing to do with debt consolidation or insurance policies.

It isn't unfair or unreasonable for a broker to use their experience or knowledge to advise consumers about whether their mortgage applications are likely to be successful; indeed, I

would argue it's entirely appropriate for brokers to do so particularly as failed applications can affect credit records. A was clear that it hadn't recommended the cheapest mortgage, but explained to Mr and Mrs B why it hadn't. The amount Mr and Mrs B wanted to borrow, compared to the value of their property and their income, combined with the debt consolidation, was an issue.

A explained to Mr and Mrs B why it had recommended the mortgage which it did, and they accepted that explanation. I note BF says Mr and Mrs B wanted to borrow more money to fund their children's university education when it wasn't certain if they'd go. This ignores the advice from A to repay the money into the mortgage and apply to take it out when required – the mortgage allowed this flexibility, which was another reason this particular mortgage was recommended. And it was up to Mr and Mrs B how and when they used the money; it appears they chose not to borrow most of the extra money when they remortgaged and repaid it to the lender. They later used the borrow back feature three times.

A was required at the time to recommend a suitable mortgage, not the cheapest. A explained why it was recommending the third cheapest mortgage, which also allowed Mr and Mrs B to borrow what they wanted when they needed the money, and I'm satisfied that the mortgage was suitable to meet Mr and Mrs B's needs.

While the issue of debt consolidation wasn't in the original complaint form, I think it wasn't unfair or unreasonable for A to look at the overall picture and advise Mr and Mrs B to consolidate all the credit card debt. Again, it explained to them that it would cost more in the long run, but would mean the mortgage they wanted would be affordable. I accept A's duty required more than simply letting Mr and Mrs B do something which wasn't in their best interests. Given the amount they wanted to borrow overall compared to the value of the property and their income, I can't say the advice to consolidate all the debt wasn't suitable. I note that in recent responses BF isn't challenging the adjudicator's view on this issue.

The insurance policy didn't affect the affordability of the mortgage, and there's no suggestion I should look at its sale. I therefore won't comment further on this issue.

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 Mr and Mrs B to accept or reject my decision before 12 May 2017.

Claire Sharp
ombudsman