Financial Ombudsman Service

complaint

Mr and Mrs W complain that The Mortgage Matters Partnership provided them with misleading and unsuitable mortgage advice.

background

Mr and Mrs W asked The Mortgage Matters Partnership, a mortgage broker, for advice in respect of re-mortgages that took place in 2004 and 2006. On both occasions the broker recommended self-certification mortgages and that Mr and Mrs W should consolidate other debts. In summary, they now consider that the broker recommended mortgages that were not suitable for them. They say that they were able to prove their income so there was no requirement for self-certification and that they were not advised on the implications of consolidating unsecured debts against their property. Furthermore, they say that the lender that was recommended on each occasion was not the least expensive.

The adjudicator did not recommend that this complaint should be upheld. She concluded that The Mortgage Matters Partnership had:

- Carried out a full fact find on both occasions.
- Fully considered Mr and Mrs W's requirements.
- Recommended mortgages that achieved Mr and Mrs W's stated needs and circumstances.
- Provided them with Key Fact Illustrations for both mortgages in 2004 and 2006.
- Recommended lenders that were competitive in the self-certification market.

Mr and Mrs W responded to say, in summary, that they could prove their income, so there was not a need for a self-certification mortgage in 2004 or 2006. In addition, they say that they were unable to make an informed choice about whether to consolidate their debts because they were not provided with all the details of the cost of this.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in the light of the evidence.

self-certification

Mr and Mrs W say that Mr W had been self-employed for two years when they applied for the mortgage in 2004 and for four years in 2006 and as he had accounts available, there was no need for a self-certification mortgage. They consider that the broker did not ask for proof of income at any time and they were, therefore, recommended a mortgage that was more expensive than if they had been assessed on a full status basis. Having very carefully reviewed the full fact find reviews that were carried out with Mr and Mrs W in 2004 and then again in 2006, I find that Mr W said that he did not have accounts available in 2004. In 2006 he said that his main income came from cash in hand work, so he was unable to prove the majority of his earned income. I am, therefore, not persuaded that Mr and Mrs W could prove their income and I am satisfied that The Mortgage Matters was entitled to consider self-certification of income as being appropriate in accordance with relevant regulations. The mortgage conduct of business rules say at 11.3.2 (b): *where proof of income is not readily available by virtue of the nature of the customer's employment, the basis of their remuneration, or the sources of their income.*

debt consolidation

Mr and Mrs W consider that the broker advised them to incorporate their existing debts into the mortgage in both 2004 and 2006 and it did so without obtaining full details of what the debts were, the term over which they were paying them and at what interest rate.

2004

The case notes relating to the discussions that took place with the broker, together with the mortgage review, show that Mr and Mrs W had an existing mortgage and a credit card debt. They also wanted to raise capital to purchase a plot of land. They said that the money that they owed on the credit card had been incurred with a view to them consolidating it. There was also a county court judgment, which related to an insurance claim dispute. The fact find was signed by both Mr and Mrs W to confirm that the information provided in it was a true record of the discussions and was correct. As the additional borrowing on the mortgage was for substantially more than the credit card debt, I do not consider that debt consolidation was the main purpose of this borrowing. I am satisfied that Mr and Mrs W were made aware of the implications of consolidation, but they were quite clear that they wanted to keep monthly repayments as low as possible. I consider that they chose this option to allow them to handle their affairs more efficiently and to reduce their monthly outgoings at the time.

2006

A further full mortgage review was carried out by the broker in 2006. The existing two year fixed rate mortgage was due for review and Mr and Mrs W were looking to remortgage. They said that they had a loan that they had taken out over a six year term to purchase land and had a credit card debt that had been used to buy luxury items. They wanted to include both of these in a remortgage so that they could reduce their monthly outgoings. The existing monthly repayments for all of these totalled £1,130. They said on a number of occasions during the review that they wanted to include all the debts in the remortgage and that their monthly outgoings were high, so their priority was to reduce these. Furthermore, they wanted to extend the term of the mortgage to keep repayments as low as possible. As the monthly repayments on the new mortgage were about half of the existing commitments and the interest rate was lower than the previous mortgage, I am satisfied that the new mortgage met Mr and Mrs W's stated needs and was affordable. I also find that the broker did discuss further debt consolidation with Mr and Mrs W and it told them that they would not be able to extend the mortgage again because they were borrowing the maximum amount against the value of the property. Mr W said that the land they owned was valuable and he may consider selling it, but he planned to use the proceeds for business purposes.

In both 2004 and 2006, Mr and Mrs W were provided with Key Facts Illustrations, which confirmed the key features of the mortgage including the amount borrowed, repayment method/term and the contractual monthly repayments. They were able to review these before proceeding with the recommended mortgages. I do not consider that there is any specific requirement for the broker to provide illustrations comparing the mortgage with and without the debt consolidation. I am satisfied that the consolidation provided Mr and Mrs W with the benefit they were seeking (i.e. a worthwhile reduction in their monthly outgoings), taking into account the term remaining on the debts they consolidated. In accepting the mortgage offers, Mr and Mrs W confirmed that the information provided in their applications was correct, that the offers had been fully explained to them and they were happy to complete the remortgages.

I do not underestimate Mr and Mrs W's strength of feeling that, as the unsecured debts are now incorporated into the mortgage; they feel that they have lost the opportunity to manage them in other ways. However, for the reasons that I have already explained, I consider that they chose this option to allow them to handle their affairs more efficiently and to significantly reduce their monthly outgoings at the time.

choice of lender

The Mortgage Matters Partnership recommended different lenders in both 2004 and 2006 and for different reasons. In 2004 it confirmed that the reason it recommended that particular mortgage was because it was competitive in the self-certification sub prime market and the lender did not require a mortgage indemnity guarantee (MIG). The mortgage was at a fixed rate for two years and was on a capital repayment basis, which provided Mr and Mrs W with the certainty they required.

The reasons that the 2006 mortgage was recommended was again for the competitive interest rate for a self-certification mortgage, with low monthly repayments, in line with Mr and Mrs W's stated need of keeping outgoings down. The lender had a good reputation for processing and offered flexible features, such as allowing some overpayments, which Mr and Mrs W had said they may consider doing if income allowed.

In both cases, I consider that the broker was entitled to make the recommendations it did, using a combination of its own knowledge of the market and a sourcing tool, Mortgage Brain. Given the length of time since the mortgages were taken out (over six years), I am satisfied that there is no failing on its part that it has not retained details of its market search. It has confirmed its reasons for recommending both of the lenders at the time, based on the findings within the fact find. I do not consider the contents of the mortgage review forms conflict with the reasons why the business recommended the lenders that it did.

my final decision

My final decision is that I do not uphold this complaint.

Karen Wharton
ombudsman