complaint

Mr and Mrs D complain that Advance Mortgage Funding Ltd (AMF) arranged two mortgages for them in 2006 and 2008 that were unsuitable. The complaint is brought on their behalf by a claims management company (CMC).

background

In October 2006 Mr and Mrs D took advice from AMF for a remortgage which completed in January 2007. In addition to the amount required to repay their existing interest-only mortgage, Mr and Mrs D borrowed approx. £32,500 to consolidate debt. They took out a two-year fixed rate mortgage for approx. £175,000 over 20 years.

Towards the end of the fixed-rate period in 2008, Mr and Mrs D took advice again from AMF. They wanted to fix their interest rate and raise an extra £15,000 for home improvement and debt consolidation. They took out a three-year fixed rate mortgage for £220,000 over 19 years.

The CMC now says that these mortgages were unsuitable. In particular they say:

- Mr and Mrs D were not advised of the implications of consolidating debt into their mortgages.
- They received nothing in writing – no letter of recommendation or Key Facts Illustration – for either mortgage.
- The broker shouldn't have advised Mr and Mrs D to fund their lifestyle with debt.
- Interest-only mortgages were arranged with no repayment method.
- Cheaper mortgages were available in 2006.

Our adjudicator didn't recommend the complaint should be upheld. He was satisfied the advice and recommendations were suitable and that relevant documentation had been provided to Mr and Mrs D.

The CMC disagreed and asked for an ombudsman to review the complaint. It has made no new submissions but has repeated its original submissions.

my findings

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

the 2006 mortgage

I'm satisfied that a fact-find was completed in 2006 when the broker took details of Mr and Mrs D's financial circumstances and their aims and wishes for the remortgage.

Contrary to what the CMC states, a detailed letter was sent to Mr and Mrs D, which they signed. This letter sets out full particulars of the information gathered by the broker about Mr and Mrs D's circumstances. It also contains a clear warning of the implications of securing previously unsecured debt. I'm also satisfied Mr and Mrs D received the KFI in 2006 because this is referred to in the letter of advice.

Mr and Mrs D already had an interest-only mortgage with another lender, and so taking on a new interest-only mortgage was not a change for them. They had told AMF they had a repayment method in place and specifically said this was an ISA. In the circumstances, I'm satisfied the broker was entitled to accept what Mr and Mrs D had told him as being accurate.

The letter shows that the broker discussed the option of other lenders with Mr and Mrs D before recommending the product he considered most suitable. In this context 'suitable' doesn't necessarily mean 'cheapest' – because there are other factors to be taken into account in relation to product features, flexibility, etc. which may make a mortgage which is marginally more expensive more suitable than another which has slightly lower monthly payments.

the 2008 mortgage

Again, contrary to what the CMC has said, Mr and Mrs D received a detailed letter of advice about their discussions with AMF in 2008. I say this because they signed and returned a copy of it. It also refers to the KFI produced for the mortgage recommended by AMF.

The letter sets out in detail the discussions Mr and Mrs D had with the adviser. I'm satisfied they were made fully aware of the implications of consolidating debt into a mortgage. In the fact-find it is recorded that Mr and Mrs D preferred to accumulate savings to repay the mortgage, and that they understood the risk that these might not be sufficient to do so.

generally

Affordability of both mortgages wasn't an issue – they were both affordable on the figures provided by Mr and Mrs D about their income and expenditure. The CMC has confirmed that Mr and Mrs D have had no difficulty in meeting their repayments.

The CMC says that AMF should have given Mr and Mrs D advice about the way in which they funded their lifestyle and taken steps to ensure they lived within their means without taking on any extra credit commitments. But it's not the role of a mortgage broker to make moral judgments about how clients decide to spend their money or to police their spending habits. As far as AMF was concerned, in 2006 Mr and Mrs D ended up with a mortgage that left them debt-free (apart from the mortgage repayment).

The 2008 remortgage didn't cause Mr and Mrs D to take on any extra credit commitments. In fact it allowed them to reduce their outgoings and monthly commitments. If Mr and Mrs D have accumulated further unsecured debt since 2008, that's not something for which AMF can be held responsible.

Overall I'm satisfied that the mortgages recommended in 2006 and 2008 were suitable for Mr and Mrs D's circumstances.

my final decision

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

Jan O'Leary
ombudsman