Financial Ombudsman Service

complaint

Mr and Mrs P complain that Legal & General Partnership Services Limited (L&G) recommended a mortgage that was unsuitable for them.

background

Our adjudicator recommended upholding this complaint. She felt that the mortgage L&G recommended for Mr and Mrs P wasn't suitable as it had a longer term, a higher interest rate, and it increased the amount they'd borrowed on an interest only basis. Our adjudicator worked out that, to move to the new deal, Mr and Mrs P incurred a large early repayment charge (ERC) on their existing mortgage that she didn't think was outweighed by any savings. Our adjudicator thought L&G should pay Mr and Mrs P compensation to cover financial loss they'd incurred as a result of taking out the mortgage L&G recommended.

L&G disagree. They say Mr and Mrs P's requirement was to raise £4,000 for home improvements and renegotiate mortgage terms on a new fixed rate. It says Mr and Mrs P received £8,700 which appears to have been surplus to their requirements, but that they could've immediately repaid this. L&G said it considered Mr and Mrs P chose to retain the surplus funding, but they had an obligation to mitigate their losses also. And although Mr and Mrs P were charged a higher rate on the recommended mortgage, and incurred an ERC on their existing mortgage, L&G said their monthly outgoings went down.

Mr and Mrs P are happy to accept the resolution that our adjudicator has suggested. So this complaint has been passed to me to decide how it should be settled.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And, like the adjudicator, I think Mr and Mrs P would've been better off if they'd stayed on the mortgage they had before switching to the mortgage L&G recommended.

I say this because the rate Mr and Mrs P were charged on the mortgage L&G recommended for them was higher than the rate they were paying on their old mortgage. And they paid an ERC which I don't find was offset by savings Mr and Mrs P made as a result of taking out the L&G recommended mortgage.

The interest only part of their new mortgage meant existing savings plans Mr and Mrs P had in place to pay off interest only borrowing weren't enough to cover the new borrowing. So it increased the risk that they might have to sell their home at the end of the mortgage term to pay off the balance owing on their mortgage account. That put them in a worse position than they'd have been in had they stayed on their existing mortgage. I can see that this issue was discussed with Mr and Mrs P. But I haven't seen enough information to satisfy me that, on balance, this was explained in such a way that Mr and Mrs P properly understood the full implications of not having in place sufficient resources to cover any shortfall at the end of the mortgage term.

I'm also not persuaded, based on the paperwork I've seen, that I can safely say that all the implications of taking out the new mortgage for a longer term than was remaining on their existing mortgage were made clear to Mr and Mrs P. Spreading the cost of the mortgage over more years kept their monthly repayments lower – but the new L&G recommended mortgage only gave them a small increase in the amount they had to spend each month. I don't think if L&G had fully explained the cost and benefit of doing this that it's likely Mr and Mrs P would've thought this worthwhile.

And it doesn't look to me as if the shorter term Mr and Mrs P had with their existing lender was unaffordable. Also, given that their existing mortgage would've finished before retirement age, this would've given Mr and Mrs P some additional flexibility over stopping work that they lost when they signed up to the new mortgage.

The L&G recommended mortgage consolidated some other debt Mr and Mrs P had. But they'd already taken out a loan to do this. They were managing all their payments effectively and had spare cash each month. So I think that the L&G recommended mortgage added unnecessarily to the overall costs of paying off their debt – especially as they borrowed more than they needed to do this and had to repay over a significantly longer term.

I've taken into account that L&G say Mr and Mrs P's monthly outgoings went down because some of their existing debts were charged at a higher rate (albeit for a shorter period); and if they received more than they wanted they could've repaid. And the mortgage was still sufficiently flexible to avoid any ERC's on repayments when their endowment policies matured. But, overall, I don't find that the mortgage L&G recommended was suitable for their needs and circumstances because their existing loan was adequate to meet those needs. I believe the new mortgage left Mr and Mrs P worse off overall. For these reasons, I uphold this complaint.

fair redress

My approach is to aim to put Mr and Mrs P, as far as possible, into the position they'd have been in if they'd not taken out the L&G recommended mortgage and kept their existing mortgage deal. I think the resolution suggested by the adjudicator reasonably achieves this. And Mr and Mrs P are happy to settle their complaint on that basis. So I think it's fair and reasonable that L&G should pay Mr and Mrs P as directed below. We'd usually require the business to pay interest on awards and I see no reason not to do that here.

my final decision

I uphold this complaint and I order Legal & General Partnership Services Limited to pay Mr and Mrs P as follows:

<u>costs of the new mortgage</u>

(A) refund the ERC plus 8% simple interest per annum calculated from the date of payment to the date of settlement;

(B) refund the set up fees/broker fees/charges plus 8% simple interest per annum calculated from the date of payment to the date of settlement (or at the mortgage rate if added to the mortgage balance);

(C) refund the difference Mr and Mrs P have paid between the re-mortgage rate and their previous existing mortgage rate plus 8% simple interest per annum calculated from the dates of each monthly payment to the date of settlement;

<u>the consolidated debt</u>

(D) work out the amount paid to date in capital and interest payments for the consolidated debt;

(E) calculate how much remains on Mr and Mrs P's mortgage balance for the consolidated debt;

(F) work out how much would've been paid to clear the debt if it hadn't been consolidated; and

(G) calculate (D) + (E) – (F) and pay this amount as a lump sum.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 9 November 2015.

Susan Webb
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