

complaint

This complaint is about two re-mortgage transactions Mr B and Ms P conducted in 2005 and 2007 respectively on advice from a representative of Legal & General Partnership Services Limited ("L&G"). They complain that the mortgages were mis-sold. They are represented in the complaint by a claims management company I shall call "G".

background

In 2005, acting on a recommendation given by L&G's representative, Mr B and Ms P re-mortgaged. In doing so, they consolidated some unsecured debt and fixed their interest rate at 4.24% for two years. Two years later, having accrued some further unsecured debt, they repeated the exercise. This time the mortgage was fixed for ten years at 5.79%

G complained that the mortgages were mis-sold. It said the mortgages L&G recommended weren't necessary, because Mr B and Ms P were not under any pressing need to consolidate and reduce their outgoings. G believes the costs of re-mortgaging outweighed the benefits.

Our adjudicator didn't think that the mortgages had been mis-sold and didn't recommend upholding the complaint. G asked for the complaint to be reviewed by 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. In asking for the case to be reviewed, G has not presented any further arguments or evidence. I infer from this that G wishes me to reach a different conclusion from the adjudicator on the same arguments and evidence.

A substantial part of G's argument that the mortgages were mis-sold appears to be that Mr B and Ms P had surplus income each month and therefore no pressing need to consolidate. But their bank statements from the relevant times paint a different picture, suggesting that they were making heavy use of their respective overdrafts each month, in addition to accumulating other consumer debt.

I can't be certain if L&G faithfully captured every element of Mr B and Ms P's outgoings. But even if it didn't, I'm not persuaded they've been prejudiced. If any items of expenditure were missing, their omission would simply have under-stated rather than over-stated the need for an improvement in their disposable income.

L&G's recommendation should have achieved an objective I consider Mr B and Ms P needed and wanted; that of improving their cash-flow. If that did not happen after the first consolidation, I'm not persuaded that's an indicator that the advice to consolidate was unsuitable. There's also the point that, having completed one round of debt consolidation, Mr B and Ms P accumulated further unsecured debt. This is suggestive of the likelihood that the improvement in their cash flow was soon absorbed into further discretionary expenditure, thus setting up a need for the second consolidation. Consolidation came at a cost in the longer term, but overall, I'm satisfied Mr B and Ms P understood this.

The re-mortgages both came with set-up costs. But G hasn't provided anything to convince me of the likelihood that approaching their existing lender rather than re-mortgaging would have produced a better outcome for Mr B and Ms P at a lower cost.

G says the first re-mortgage raised more money for Mr B and Ms P than the amount they needed to consolidate. If they did not need the surplus funds, they could have used them to reduce the mortgage balance; in effect pay them back to the new lender. That seems reasonable to me. The terms of the new mortgage permitted Mr and Mrs L to pay up to 10% of the mortgage balance each year without incurring an early repayment charge.

With the benefit of many years' hindsight, the interest rate Mr B and Ms P agreed to in 2007 looks expensive. But that recommendation was made before the financial crisis, at a time when the general expectation that rates were more likely to rise than fall.

Finally, I don't think I need consider whether or not L&G cold-called Mr B and Ms P. The Financial Ombudsman Service is not a regulator of financial businesses; that is the role of the Financial Conduct Authority. My role is to consider the advice given and the suitability of the recommendation made, not to consider and punish potential technical breaches of the regulations. Regardless of how the initial contact was made, I'm not persuaded it had any effect on the eventual recommendation, and so it's not a matter I need decide.

my final decision

For the reasons set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Ms P to accept or reject my decision before 13 November 2015.

Jeff Parrington
ombudsman