

## **complaint**

Mr and Mrs W, through their representative M, complain that Legal & General Partnership Services Limited through its appointed representative AWD Home Finance Ltd ("AWD") mis-sold them their mortgage. They want compensation.

## **background**

Mr and Mrs W took advice from AWD in 2007. M said the mortgage Mr and Mrs W then took out was mis-sold because it wasn't suitable. M complained to Legal & General. It said the retirement age suggested in the mortgage advice was too high, there wasn't a plan to pay the mortgage off at the end, and the debt consolidation meant Mr and Mrs W were at more risk of losing their home.

Legal & General said it was clear at the time Mr and Mrs W needed to reduce their outgoings as they were in financial difficulties. As they wanted to stay in their home, an interest only mortgage was recommended by AWD, allowing Mr and Mrs W to stay and use the money saved to pay their debts. Mr and Mrs W signed a document saying they understood interest only mortgages only paid the interest, and not the debt. Legal & General said Mr and Mrs W rejected the advice to have a larger repayment mortgage as they wanted as much spare money as possible. It denied the retirement age was too high as Mr and Mrs W needed to keep working due to their financial position.

M complained to us. The adjudicator's view was that Mr and Mrs W were in financial difficulties and as a result of the advice given by AWD managed to stay in their home. She thought it was possible Mr and Mrs W might've otherwise lost their home. The adjudicator didn't think the advice given was unsuitable as Mr and Mrs W knew they didn't have a plan to repay the mortgage at the end and planned to move out and rent elsewhere. Due to the remortgage, they managed to stay longer without paying rent. The adjudicator pointed out house prices had increased over the last few years and she didn't think Mr and Mrs W had suffered any financial loss.

M disagreed. It agreed Mr and Mrs W had managed to stay in their home, but at too high a cost. It pointed out Mr and Mrs W were elderly and would've been in a better position to deal with moving home in 2008, as opposed to now. It didn't think the debt consolidation was appropriate as it reduced the equity in Mr and Mrs W's home. M said paying interest only was the same as paying rent.

## **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 don't think the mortgage was mis-sold to Mr and Mrs W. Mr and Mrs W chose an interest only mortgage, despite being advised of the risks. I note their previous mortgage had 25 years left to run, while the mortgage taken out on AWD's advice would last until Mr and Mrs W were in their mid -70's. Mr and Mrs W told AWD they knew they didn't have a repayment plan, and would sell the property when the mortgage ended. I can't hold Legal & General to current standards – at the time, this was an acceptable repayment plan. And while I note M's point that it's harder for people to move home when they're older, it is a matter of consumer choice and I can't assume all people are unable to move home when older; everyone is different and has different needs.

Mr and Mrs W clearly wanted to consolidate their debts as they were struggling to pay them on time. Such struggles can result in bankruptcy and the loss of their home. I agree with M's point that just because a consumer wants to do something, it doesn't mean the adviser should agree. But in these circumstances, debt consolidation was in Mr and Mrs W's best interests as it gave them a chance to deal with their debts and freed up money to pay them. I note Mr and Mrs W chose to not let their solicitor pay some of the debts direct, so I don't know if all the debts were in fact paid, but again that was Mr and Mrs W's choice. Given the amount of charges Mr and Mrs W had to pay due to their inability to pay their debts on time, and the risk that action against their home would be taken, I don't think I can say debt consolidation wasn't suitable in their case.

I can see M's point that effectively paying an interest only mortgage is similar to paying rent, though often such payments are lower than rent itself. But Mr and Mrs W's property did increase in value over time, and so while I agree the debt consolidation originally did reduce their equity, that position has now improved. And Mr and Mrs W at the time were very clear that equity wasn't a big concern – they planned to move into a rented property.

### **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 W to accept or reject my decision before 10 December 2015.

Claire Sharp  
**ombudsman**