

complaint

Mr and Mrs H, who are represented by a claims management company, complain that they were mis-sold a mortgage by an appointed representative of Legal & General Partnership Services Limited.

background

Mr and Mrs H had a mortgage, which – acting on a recommendation from L&G – they re-financed. They switched lender, incurring an early repayment charge (“ERC”), and taking out a new fixed rate product. They consolidated around £40,000 of unsecured debt and added the ERC and set-up fees and charges to the mortgage balance.

Mr and Mrs H’s representative now complains that the mortgage was unsuitable, in particular because of the consolidated debt, the ERC and the amount of the set up fees. L&G said that the recommendation was suitable, because debt consolidation was appropriate and was Mr and Mrs H’s objective in taking the loan, and the fees and charges were fully explained. Our adjudicator agreed.

In reply to the adjudicator’s view that the complaint shouldn’t be upheld, Mr H said the mortgage increased their debt and their outgoings, and that they were pressurised and mis-led by the adviser. He said they were cold-called by the adviser to obtain their business and also complained about the sale of various insurance policies. Mr H said that, although he and Mrs H were in debt, they were managing their payments and had an excellent credit rating, but that they had been told by the adviser that they had missed mortgage payments and that no other lender would give them a mortgage, adding to the pressure they felt to accept the recommendation.

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.

I do understand Mr H’s strength of feeling about the mortgage recommendation and I have taken into account everything he and his representative have said. But, having done so, I’m afraid that I can’t uphold this complaint for reasons I’ll explain.

Mr and Mrs H say that they were cold-called by the adviser to obtain their business; L&G says that they had agreed to be contacted. It seems most likely to me that both are right; Mr and Mrs H at some previous time opted in to being contacted, but that when they actually were, they weren’t expecting it. But in any event, I don’t think is relevant to the complaint. However they were contacted, Mr and Mrs H decided to take advice, and it is the suitability of the advice that I have to consider in this decision.

In this case, I’m not persuaded that the advice was unsuitable. I note from the client review that Mr and Mrs H had significant debts – they had several credit cards, all with substantial balances, and also a large loan which was taken out for a previous debt consolidation exercise. The fact find shows that they had little or no disposable income each month. So while they may have been meeting their obligations, they were making little headway. They were not paying much more than the minimum to their credit card balances, which were

large despite (or since) the previous consolidation exercise; they had no financial cushion overall or each month; their debts appear to have been increasing rather than reducing.

In that context, the recommendation to consolidate the debts appears to me to have been suitable. It reduced Mr and Mrs H's monthly outgoings and provided them with some stability and security. While it may have increased the overall cost of the debts, they were warned about that and I don't consider it to have outweighed the advantages of consolidation. And given their financial situation, it seems to me that there was some urgency – so I don't consider incurring the ERC to be unsuitable either.

While the re-mortgage incurred set-up fees which were added to the balance, this doesn't make the loan unsuitable; it is relatively common practice and I haven't seen any evidence that suggests it was unwise in this particular case. And the fees were clearly explained to Mr H and Mrs H before they went ahead.

I have considered what Mr H has said about feeling pressurised to take out the mortgage. I accept that he now genuinely feels that to be the case, but there isn't any other evidence to support his recollection and I have to take into account the possibility that his recollection may be influenced by his current view of the suitability of the advice. The evidence from the time suggests that Mr and Mrs H wanted to reduce their outgoings and the recommended mortgage achieved that.

The advice documents from the time don't record any issues with Mr and Mrs H's credit record or that that was the basis of the advice given. Nor is there any evidence that they had missed any mortgage payments, or were told that they had – and indeed I would expect them to have known whether in fact they had or they hadn't.

Finally, I have noted that Mr H is unhappy with the insurance products sold alongside the mortgage. But they aren't part of this complaint, and that matter would have to be raised with L&G before this service could consider it.

my final decision

For the reasons I have given, my final decision is that I don't uphold this complaint.

Simon Pugh
ombudsman