complaint

Mr and Mrs A through their solicitor B complain that W, an appointed representative of Legal & General Partnership Services Limited, gave poor advice in 2006 and 2008 about debt consolidation and recommended an unsuitable mortgage. They want matters put right.

background

Mr and Mrs A in 2006 met W, a mortgage adviser, as they wanted to remortgage. W advised them to remortgage as their fixed interest rate mortgage product was ending and to borrow enough money to remortgage and pay unsecured debts ("debt consolidation"). The amount of money available to Mr and Mrs A to spend as they wished ("disposable income") increased as a result of the mortgage taken out.

In 2008, Mr and Mrs A met W again as the fixed interest rate mortgage product was ending. Again, a new mortgage was taken out and unsecured debts paid using the money borrowed under the new mortgage.

B complained to Legal & General, saying that the mortgage recommended in 2008 was unsuitable to meet the needs of Mr and Mrs A, and the debt consolidation advice was also unsuitable both in 2006 and 2008. Legal & General said that in 2006, as a result of the advice given by W, Mr and Mrs A's monthly disposable income increased, and the mortgage recommended was suitable as it met their budget and goals. The mortgage was also on a lower interest rate than the earlier mortgage and the interest charged on the unsecured debt.

In relation to the 2008 advice, Legal & General said the mortgage recommended met the goals and needs of Mr and Mrs A and there was no evidence that a cheaper mortgage was available. Both in 2006 and 2008, Legal & General pointed out that Mr and Mrs A signed documents to say that they had read W's advice and accepted it.

B complained to us. The investigator's view was that both in 2006 and 2008 Mr and Mrs A were told in writing about debt consolidation and that it could end up costing more in interest payments in the long run. Mr and Mrs A signed this document, and the investigator thought they'd decided that making just one payment was more of a priority. In relation to the 2008 mortgage, the investigator said the cheapest mortgage wasn't recommended because the interest rate wasn't fixed for long enough; she said the mortgage recommended was suitable as it was one of the cheapest and fixed the interest rate for a longer period. The investigator said Mr and Mrs A accepted the advice, despite knowing other interest rates were available.

B disagreed. It said the documents hadn't been signed in the presence of the adviser, and Mr and Mrs A had trusted the advice given. B remained of the view that the advice given was unsuitable. Legal & General pointed out Mr and Mrs A were given time to read the documents, and this had happened two months before completion. B disagreed.

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 think it would assist if I dealt with the general issues raised by this complaint first. I think explaining things to consumers and giving them warnings is part of giving them advice. The advice given by W covered recommending debt consolidation and a mortgage to

Mr and Mrs A. I have to look at the overall advice given. There's no dispute that Mr and Mrs A were given advice in writing by W and signed documents to say they'd read it, both in 2006 and 2008. There's no rule requiring the adviser to personally attend a consumer's home to get document signed and it's clear the advice was given months before completion of the mortgage. I can't say Mr and Mrs A weren't given time to read the information on both occasions, and could've pulled out of the transaction if they had concerns.

Consolidation of debt into a mortgage can cost consumers more in the long term as often they pay interest over a longer period. This can wipe out any savings from a lower interest rate. But the benefit can be to enable consumers to reduce their bills and have more spare money each month to be used as they see fit. It's open to the consumer to make that choice, provided it's properly explained and their needs and goals are met by debt consolidation.

2006

The issue raised regarding the advice given in 2006 is purely about the advice to consolidate unsecured debt into the new mortgage, not the new mortgage itself. W explained in a document signed by Mr and Mrs A that debt consolidation would cost more in interest payments overall, but would also reduce their monthly payments. That's wasn't unfair or unreasonable advice. I agree with B that W's duty required more than simply letting Mr and Mrs A do something which wasn't in their best interests, but W wasn't a debt counsellor. I can't say the advice to consolidate all the loans wasn't suitable, particularly as the debt had a higher interest rate than the new mortgage. I think it was fair and reasonable advice to include all the loans, particularly when the consequences of doing so were clearly explained in writing to Mr and Mrs A. It meant the mortgage became more affordable and significantly increased their monthly disposable income.

2008

Many of my comments in relation to the 2006 debt consolidation apply here. Consumers are free to make choices about what to do, as long as the consequences are properly explained to them and they aren't misled. I think the explanation in this case was clear and fair. I don't think it's unfair or reasonable to recommend that Mr and Mrs A (particularly with their previous experience of debt consolidation and the debt was comparatively small compared to 2006) consolidate the debt. The credit card debt was likely to be charged at a higher interest rate than the mortgage recommended.

Was the actual mortgage recommended suitable? There's limited evidence available due to the passage of time, but it appears one mortgage would've been cheaper. But that mortgage only offered a fixed interest rate for two years, while the slightly more expensive product recommended by W offered a five year fixed interest period. That's a considerable benefit to Mr and Mrs A, though I accept in practice as interest rates dropped, it probably didn't feel like that in hindsight. There's no evidence showing that a cheaper five year mortgage product was available for Mr and Mrs A in 2008.

Having considered the evidence available to me, I don't think the mortgage was mis-sold. It had the benefit of a lengthy fixed rate period. This met the needs of Mr and Mrs A as set out in the advice document by W and signed by them – they wanted the interest rate fixed for as long as possible and to be financially stable. The new mortgage had a cheaper interest rate than the debt paid off by the new mortgage, though I accept overall the interest paid may have been higher. I would make the point that W was only required to recommend a suitable mortgage, which in my view it did.

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 A to accept or reject my decision before 18 January 2018.

Claire Sharp
ombudsman