

complaint

Mr and Mrs T complain that they were mis-sold a mortgage by an authorised representative of Legal & General Partnership Services Limited ("L&G").

background

Mr and Mrs T had an existing mortgage when they took advice from L&G. According to the fact find taken by L&G at the time, they also had a personal loan and four credit card debts. They were overspending by over £60 per month.

Acting on L&G's recommendation, they re-mortgaged, borrowing an additional £8,000 and consolidating the personal loan to the mortgage. They also purchased insurance products, the costs of which, with other fees and charges, were added to the mortgage balance. They switched from a variable rate to a two year fixed rate, but one which was around 1% higher.

Our adjudicator noted that Mr and Mrs T's monthly outgoings increased following the recommendation. She noted that the credit cards didn't appear to have been consolidated, leaving them with a higher mortgage and still with significant unsecured debt. She noted that Mr and Mrs T had only wanted to raise £4,000 of capital but had received £8,000. She recommended upholding the complaint.

In reply, L&G said that the adviser had recommended consolidating all the debt, but that the redemption figure for the personal loan had been higher in reality than Mr and Mrs T had said it was in the client review. Therefore only £8,000 (instead of £11,000, for the further capital and credit cards) had been raised. But Mr and Mrs T could have used this to pay off their credit cards and still have had some left for their home improvements.

Having considered what L&G said in reply to the adjudicator's opinion, I found it persuasive. As a result, I issued a provisional decision setting out why I was minded not to uphold the complaint. In it, I said:

The suitability record recommended consolidating all the debt, and the mortgage was applied for on that basis. However, the personal loan turned out to have a redemption figure almost £4,000 higher than anticipated, leaving less of the borrowing available for other purposes.

There isn't any evidence that L&G checked the redemption balance – rather than simply relying on what Mr and Mrs T thought – before applying for the mortgage. Neither is there any evidence that it applied for more borrowing when the figure turned out to be higher. To my mind, it should have done both those things. But I don't think that – in the particular circumstances of this case – the failure to do so made a significant difference; I agree that, taking into account their credit record and the ratio of their income to the mortgage balance, it is likely that they were already at the limit of their borrowing capacity with the lender.

In any event, there was still enough capital raised to pay off the credit card debts, as recommended, albeit at the cost of some of the home improvements Mr and Mrs T wanted to carry out. I don't have any information as to what they did with the money they received on completion. But given their financial position and urgent need to reduce their outgoings, they should have used it to pay off their credit card debts as they were advised to do. If they did, then the mortgage achieved its objectives (within

the constraints of what they would have been able to borrow). And if they didn't, I don't consider that to be L&G's fault.

I note that the interest rate on the new product was higher than the old one. But I accept that this was because of Mr and Mrs T's credit history, which limited the products available to them. Because the mortgage otherwise achieved their objectives, I don't consider this enough to make it unsuitable.

the responses to my provisional decision

L&G accepted my provisional decision. Mr and Mrs T didn't but their representative didn't put forward any further substantive arguments on their behalf. She simply said my decision was unfair and the advice left them out of pocket.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have also considered again my provisional decision. But having done so, I see no reason to depart from the provisional conclusions I reached.

my final decision

For the reasons I have given, my final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs T to accept or reject my decision before 3 March 2015.

Simon Pugh
ombudsman