Financial Ombudsman Service

complaint

Mr F complains that his mortgages were mis-sold by Legal & General Partnership Services Limited ("L&G").

background

Mr F had a mortgage. In 2005, he took advice from L&G, leading to him re-mortgaging to another lender, consolidating debt and raising some capital to finish planned home improvements. In 2008, again on L&G's advice, he re-mortgaged to a different lender, consolidating further debt, and paying an early repayment charge ("ERC") to his existing lender to do so.

Mr F now complains that both recommendations were unsuitable. In 2005, he didn't need to switch lender but could have requested a further advance from his existing lender. Although some debt consolidation was suitable, it wasn't right to include debt in his wife's sole name when she wasn't party to the mortgage. Nor was it right to take her income into account in assessing affordability.

In 2008 Mr F says that the recommendation was unsuitable again in respect of the debt consolidation and because an ERC was paid. He says that there was no need to re-mortgage at this point.

Our adjudicator didn't think that either complaint should be upheld. As Mr F didn't agree, the case comes to me for a decision to be made.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to much the same conclusions as the adjudicator.

I don't consider the 2005 advice to be unsuitable. It isn't clear why Mrs F wasn't a party to the mortgage, but according to the fact find she was contributing to the household income and expenditure, which appears to have been dealt with on a joint basis. I don't think it was unreasonable to take that into account when considering affordability, even if the mortgage was in Mr F's sole name. In any event, even if it wasn't taken into account the mortgage would still have been affordable, and there is no suggestion that Mr F struggled to maintain the repayments after taking it out.

Mr F had substantial unsecured debt in 2005, and Mrs F also had some which seems to have been in her sole name. Individually Mr F, and jointly Mr and Mrs F, were in a position where their income wasn't matching their outgoings. They had also run out of money partway through a home improvement project and needed to raise capital to finish it.

I therefore think that the recommendation allowed Mr F to raise the additional capital he needed to finish the project. Given the amount of the unsecured debt and the monthly payments that had to be made to service it, it seems to me to be likely that, without consolidation, the extra borrowing wouldn't have been affordable. So consolidating the debt allowed Mr F to meet his objectives. While some of the debt was in Mrs F's sole name, it isn't inherently unsuitable for a husband to take over his wife's debts, particularly in a context where the household as a whole needs to reduce expenditure to allow the raising of additional capital.

Mr F's representative says that he could have been advised to remain with his existing lender rather than switch. This is right, but I'm not persuaded that doing so would have been significantly cheaper. A further advance would have had to have been assessed by the lender, and may not have been granted. If it was, Mr F would still have had to pay broker, lender and valuation, if not legal, fees. And there is no evidence that the existing lender had a cheaper product available.

Despite consolidating the debt in 2005, Mr F had run up significant further debts by 2008. These were again consolidated to the loan, this time with a warning not to take on further debts and to cut up his credit cards. Given his financial situation at the time, I again don't consider this to have been an unsuitable recommendation. Once again, the unsecured debt had left Mr F in a position where his expenditure exceeded his income, and once again consolidating it to the mortgage reduced outgoings to a manageable level. He was clearly warned that this was not likely to be an option again in the future.

In all the circumstances, I don't consider this to be an unsuitable recommendation. Although it resulted in the payment of an ERC (added to the new mortgage balance) I don't think that Mr F's financial position was such that matters could have been delayed to the end of the ERC period.

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 F to accept or reject my decision before 19 February 2014.

Simon Pugh
ombudsman