complaint

Ms A through her solicitor B complains that Legal & General Partnership Services Limited ("L & G") mis-sold her a mortgage, through an appointed representative that was part of its network, by telling her that the only option available was interest only and by advising her to consolidate her unsecured debts under the mortgage. She wants compensation.

background

Ms A took out a mortgage in 2006. She said that it had been mis-sold as Ms A said L & G had advised her that the only option available to her was an interest only mortgage and had advised her about her debts. Ms A consolidated her debts with the new mortgage (paid off unsecured debts using money borrowed under a mortgage). She said as a result of this advice, she'd paid more interest as it took her longer to repay the consolidated debts.

B complained to L & G. It said when Ms A spoke to the adviser, she had an existing repayment mortgage with a variable interest rate of 6.59% and several unsecured debts; Ms A had also reached her overdraft limit. The mortgage it recommended charged 4.79%, and debt consolidation was recommended as Ms A was overspending to repay all her debts by £254 a month. After the remortgage, she was due to have £75 surplus a month, while if she hadn't consolidated, she still would've been overspending. The consolidation put Ms A on a sustainable course according to L & G. It also noted that the mortgage taken out met Ms A's needs; while other mortgages might've been cheaper, they didn't have the feature she wanted. The complaint wasn't upheld.

B complained to us. The investigator's view was that the complaint shouldn't be upheld. She said that the facts set out in the various client reviews in 2006 were recorded correctly and contained similar information. The investigator noted that Ms A signed all the pages of the suitability letter of 15 August 2006 (which replaced an earlier one), which suggested that the contents were correct. She said that the information recorded showed Ms A was in debt and spending more than she earned, while the mortgage recommended was much cheaper than the previous one.

The investigator didn't think that Ms A was financially worse off due to the consolidation of debt, particularly when it was noted some of the loans charged a rate of 24%. The investigator noted that Ms A wasn't making payments towards her credit cards or overdraft due to her financial difficulties and thought that if they hadn't been consolidated, she still would've struggled. The evidence suggested she wanted to pay one affordable amount to deal with her loans, and the adviser had searched for appropriate products before making a recommendation in the investigator's opinion.

B disagreed. It wanted more analysis of the comparative costs.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. My role is to say what I think is fair and reasonable, not answer specific questions. I also have to ensure my decision is appropriate for publication and doesn't identify Ms A.

Mortgage type

Ms A has said that she was advised her only option was an interest only mortgage. But the product she took out was a repayment mortgage. And I can see that throughout she said she wanted a repayment mortgage and she was advised on that basis. I can't find that Ms A was advised her only option was an interest only mortgage as the facts don't support that view.

Timing

B has suggested that the evidence from L & G mightn't be reliable as there are print outs of the mortgage documents from 2008. Having looked at the evidence, I'm satisfied that Ms A was advised and took out her mortgage in 2006, not 2008. The timings appear to be that she was first advised on 25 July 2006 (confirmed in the demands and needs letter) and three days later there was a review which led to product information being supplied and a choice made. An application to the lender was made on 29 July 2006, but after this happened, the lender changed the product and added more fees. This caused the advice to be changed and new product was selected in early August.

After the mortgage offer was issued on 10 August 2006, the adviser produced a new suitability letter to reflect the current position, and this was accepted and signed by Ms A on 24 August 2006. The mortgage completed shortly afterwards. There is nothing inherently suspicious in this timeline and it's supported by the evidence from L & G. Lenders do withdraw and amend products, and this can cause changes to the application and the suitability of what's been recommended. But it's the product recommended in early August 2006 that Ms A took out and it's this product that was considered in the second mortgage suitability letter that she accepted on 24 August. Just because the suitability letter followed the mortgage offer, it doesn't follow that it isn't reliable and isn't a fair reflection of the advice given to Ms A. She accepted that advice before taking out the mortgage, and that's what is crucial.

Suitability

Looking at the whole situation, I think the advice given was suitable and the mortgage wasn't mis-sold. Ms A had a variable interest rate mortgage that was comparatively expensive. The mortgage recommended meant Ms A gave her £75 disposable income a month, when previously she'd been spending more than she earned. The client review and suitability advice shows that affordability was considered. Ms A reduced the interest rate for her mortgage by following the advice given. I note that Ms A signed the advice where she was told that there were cheaper products available, but the flexibility of the mortgage she took out was attractive to her. And I think if the information was incorrect, it's unlikely Ms A would've signed the suitability letter (or the other letters wanting to progress the application).

Without consolidating her debts, she would've continued to overspend and Ms A wasn't managing to make payments to some of her loans. I think it's likely that without the consolidation, Ms A would've continued to struggle as the repayments would've been more than her projected surplus income calculated when consolidation was undertaken (in other words, it would've cost more than £75 a month to repay and the difference in the lower mortgage payments that would result from borrowing less wasn't likely to be sufficient to make up the shortfall).

I note that some smaller debts were also allegedly consolidated, but the money borrowed was given to Ms A to deal with according to the completion statement notes. Ms A was warned by L & G's adviser that debt consolidation was likely to mean that she paid more interest in the long run. Again, Ms A signed the advice where she was told this, and it appears that there was earlier advice given on 1 August 2006; I think it's more likely than not this advice was given then as well as it was standard advice. And I note that some of the unsecured loans had a relatively high interest rate, while Ms A appeared to be struggling to pay the credit card and overdraft debts.

The considerable difference in the interest rate charged under the original loan and the new mortgage, even allowing the extra time added to repay all the debt, combined with the resolution of the overspend issue justified the inclusion of the debts if Ms A wanted to do that. The point is that she was told about the risk, and chose to go ahead. Consumers are perfectly entitled to make choices, provided they've been advised correctly. The evidence shows that Ms A's position was fully considered and appropriate advice given. Ms A was put in a position to make one payment to deal with her loans and benefit from disposable income.

Looking at all the evidence available to me, I think the new mortgage met Ms A's needs and wasn't mis-sold.

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 Ms A to accept or reject my decision before 8 May 2020.

Claire Sharp
ombudsman