complaint

Mr N complains that he was mis-sold a mortgage by Next Step Mortgages Ltd.

background

Mr N took out a mortgage to buy his property in 2004, arranging the mortgage through Next Step. By 2007, he was in financial difficulty. He was in arrears on his mortgage and his unsecured debt. His mortgage lender had refused him a new rate when his old product expired and had referred his account to its litigation department. Mr N approached Next Step for further assistance, and it is the resulting 2007 transaction that is complained of.

Next Step arranged a re-mortgage with a different lender, securing a significantly lower interest rate. It consolidated his credit card (but not loan) debts to the mortgage. It switched the mortgage to interest only terms. The result was that Mr N was no longer in arrears on any of his commitments and was able to maintain the mortgage, at least until there was a change in his circumstances some years later.

Mr N’s representative complained that the recommendation was unsuitable, because it extended the term into retirement, converted the mortgage to interest only and added unsecured debt to a secured mortgage loan.

Our adjudicator carefully considered Mr N’s circumstances and the advice that was given at the time. Whilst, he concluded, he had some concerns about aspects of the advice viewed in isolation, taking into account Mr N’s situation he considered that it represented the best advice at the time.

The adjudicator noted that the rules of mortgage regulation provide that where a consumer is in arrears different considerations apply. While a recommendation may not be suitable for a new customer, it would be for a consumer in arrears where it is more suitable than the existing arrangement. He took the view that this was the case here; a mortgage in arrears and on the verge of litigation was swapped for one that was up to date, affordable and able to be maintained. While the term was extended into retirement, Mr N had generous pension entitlements.

Mr N’s representative accepted that the re-mortgage advice was suitable and met Mr N’s needs at the time. But it disputed that including the consolidation of unsecured debt was appropriate. And it said that it wasn’t fair that Mr N was charged a significant broker fee, added to the loan, when the broker also received substantial commission from the lender.

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 am in agreement with the adjudicator about the overall suitability of the recommendation. It ensured that Mr N was able to resolve his arrears position with his existing lender, it made his repayments affordable, and it removed the very real threat of possession proceedings (although they later materialised, that was following a significant change in circumstances in 2010 and is not attributable to the 2007 advice).

I have noted what Mr N’s representative says about the unsecured debt – that it shouldn’t have been consolidated and that it was made considerably more expensive. It says that

Mr N should instead have been advised to enter a debt management plan with his unsecured creditors. It also questions why the credit cards were consolidated but a car loan was not.

The broker's explanation for the difference between the credit cards and the loan I find to be reasonable. The car loan was a business expense and Mr N could offset at least part of it against his tax liability; had he consolidated it, he would no longer have been able to do so.

I also find consolidating the credit card debt to be suitable in this case. Mr N was clearly in significant financial trouble in 2007. While he could have negotiated with his creditors and entered a debt management plan, that would have continued his problems and extended the damage to his credit record. By consolidating, he had the opportunity for a clean start. It is true that increased the overall long term cost of the loan. But I'm satisfied that the broker weighed up the advantages and disadvantages appropriately, and explained them to Mr N. I'm satisfied that the result of that exercise was a suitable recommendation. It had its drawbacks, but Mr N's situation was such that any outcome would have been far from perfect. And I don't find this one to have been unsuitable.

That leaves the broker fee. It was clearly explained to Mr N that he would have to pay it, and how much it would be, right from the start. The same disclosure document that set out the fee also said that the broker would receive commission from the lender. That commission wasn't paid by Mr N or added to his loan balance, so he hasn't suffered any loss in that respect. And as the broker clearly explained, at the start, what the price for his services would be, I don't consider charging Mr N a fee alongside the commission to be unfair.

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 N to accept or reject my decision before 12 January 2015.

Simon Pugh
ombudsman