

complaint

Miss E complains that an appointed representative of Legal & General Partnership Services Limited ("L&G") mis-sold her a mortgage.

background

I issued a provisional decision in this case on 29 October 2015. In that provisional decision, which is attached and forms part of this final decision, I indicated that I didn't intend to uphold this complaint.

All parties have confirmed they have received my provisional decision. L&G had nothing to add. Miss E's representative made some further arguments.

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've considered the final submission put forward by Miss E's representative, but whilst the arguments are well made, they don't persuade me to change my view on the case. I've considered all aspects of the case again in coming to this decision. Although some of the arguments have already been dealt with in my provisional decision, there are other arguments which merit further explanation.

Firstly Miss E's representative says that her spending habits at the time were not typical, and there was a personal life event which meant she was spending more than she usually would. She was further motivated to get her spending under control. I have no doubt this is the case, but the position prior to her taking out this mortgage was that she was spending more than she was earning simply on paying the debts, without taking into account any future spending. This was a situation that, if not dealt with quickly, could've meant her losing her home.

It is also argued that Miss E would've preferred to have entered a formal debt management plan rather than refinance her debts. Whilst I accept that this was an option, I don't see it as an attractive option for her, notwithstanding that she had already some issues with her credit record. This option would've made it significantly worse, and I think still could've put her at risk of her losing her home given the gravity of the situation.

Finally, I remain unconvinced that the advice has, in the long term, actually meant Miss E has lost money. Although there are aspects of the advice that might've been seen to be inappropriate, taking an overall view of Miss E's circumstances, I think the advice was suitable, and I don't uphold this complaint.

I am grateful to both parties for the care in which they have taken to answer the queries I had during this investigation and the clear submissions provided on both sides.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 18 January 2016.

Nigel Hamilton
ombudsman

complaint

Miss E complains that an appointed representative of Legal & General Partnership Services Limited ("L&G") mis-sold her a mortgage.

background

Miss E had an existing mortgage with another lender. She took advice from L&G, and its representative recommended her a different mortgage with Birmingham Midshires, and also suggested that she consolidate a large number of credit card debts into the mortgage.

This led to Miss E borrowing substantially more against her home than she previously had been. Because the credit card debts were consolidated, she also was paying substantially less overall each month than she was.

Our adjudicator didn't uphold the complaint. She considered that L&G had recommended a repayment mortgage to consolidate the debts, which left Miss E paying less each month. In her circumstances, this was suitable advice, notwithstanding the additional fees that were charged for switching provider.

Miss E's representative didn't agree, and so the case has been passed to me for a final decision to be made.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

When I received this case, it was clear that the information provided by Miss E's representative didn't match that considered by L&G. Although there is conflicting information, Miss E's representative has convinced me that it is more likely an interest-only mortgage rather than a repayment mortgage was finally recommended. This means that although Miss E would've been paying less each month, she wouldn't be paying off the debts. In most circumstances, I would be slow to accept that re-mortgaging a repayment mortgage to an interest-only mortgage, incurring substantial fees and early repayment charges, would be suitable advice. Because of this, I asked L&G to look again at the case, and provided it with all the information that Miss E's representative has supplied our service with. I was quite frank with L&G that it would need to provide cogent reasons to convince me that the recommendation was suitable given the substantial increase in the mortgage debt that Miss E was recommended to take, particularly as the change meant she wouldn't be paying back the capital each month, and the interest rate on the mortgage was a little higher than her previous mortgage.

L&G has, I am satisfied, re-investigated this case in full, and provided me with substantial detail in its response. It notes, accurately, that in the months leading up to the re-mortgage Miss E had to treble her overdraft limit and incurred a number of fees for missed direct debits and unauthorised overdraft fees. It is also clear that Miss E was spending more than she was earning simply on paying debts, without taking into account any living expenses. This is not a situation which could've continued.

I have to decide what is more likely than not in the circumstances, and I consider that initially a repayment mortgage was recommended, but on recognising that this would still leave Miss E in a situation where she had little or no money to live on, an interest-only mortgage was then recommended. I think, on balance, although I have my misgivings as to the level of charges which this advice entailed, it was the only realistic option open to Miss E. The alternative was that she would've continued to overspend and probably lose her home. I don't consider that the alternative suggested by Miss E's representative of formal debt reduction strategies, with the very significant credit implications, was a better option.

Even if I was convinced, which presently I am not, that this was an unsuitable mortgage, I don't think Miss E has suffered financial loss as a result of this advice. The product that was recommended replaced a ten year fixed rate with a three year fixed rate. Over the period of the fixed rate, the Bank of England base rate fell substantially, which meant that at the end of the fixed rate period, the variable rate Miss E moved on to was a fraction of the previous long-term fixed rate.

I recognise the adviser wouldn't have known this was going to happen, and it doesn't mean that otherwise unsuitable advice became suitable with the benefit of hindsight, but it does, in my view, mean that even if I am convinced on further argument that the mortgage recommendation was unsuitable, the losses that have actually flowed from that advice are negligible, if indeed there has been a loss at all. And Miss E benefitted in the short-term from a large reduction in her monthly outgoings.

I have made Miss E's representative aware previously of my view about the financial loss, and if the rationale of my provisional decision is to be challenged, I would ask for further argument directly on what losses have flowed from the advice to be provided, in addition to what Miss E's representative has previously responded with.

my provisional decision

For the reasons outlined above, I don't intend to uphold this complaint. I now invite all parties to submit any further arguments by 30 November 2015, after which I will issue my final decision.

Nigel Hamilton
ombudsman