

## **complaint**

Mr and Mrs F complain that Legal & General Partnership Services Limited mis-sold a mortgage to them.

## **background**

In 2005, the fixed rate period on Mr and Mrs F's mortgage came to an end and they wanted to re-mortgage at a better rate. Legal & General recommended they consolidate unsecured debt. Mr and Mrs F say this was unsuitable and caused financial loss. Legal & General said Mr and Mrs F had to consolidate debts as they expected a drop in income.

The adjudicator recommended that the complaint should be upheld. She said the advice to consolidate unsecured debts was unsuitable. The short term reduction in monthly debt payments did not justify the increased cost of the debt overall. Mr and Mrs F did not need to consolidate the debt. The adjudicator recommended that Legal & General pay compensation for the increased cost of the consolidated debt and refund its brokers fees with 8% interest.

Legal & General did not agree. It said Mr and Mrs F expected a fall in income. They wanted to consolidate debt to reduce their debt payments and maintain their standard of living. They were aware of the implications of consolidating debt.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Legal & General recommended the mortgage. It had to obtain all relevant information and ensure any mortgage it recommended was suitable for Mr and Mrs F's needs and circumstances. I don't think the advice to consolidated unsecured debts was suitable.

Mr and Mrs F wanted to re-mortgage as the fixed rate period on their existing mortgage was ending. The fact find says knowing what their monthly payments would be was important to them. It does not say they needed to reduce outgoings. Legal & General's records say Mr and Mrs F had about £900 per month available after debt repayments and usual outgoings.

If Mr and Mrs F needed to consolidate debt to reduce monthly debt payments, I would expect the fact find and suitability letter to say so. If Legal & General knew Mr and Mrs F were about to experience a significant drop in income, I would expect it to record this in the sales documents and take it into account when assessing the affordability of a mortgage. The fact find says Mr F's income was expected to stay the same.

The suitability letter says Mr and Mrs F could afford a repayment mortgage over a shorter term. They stayed with a 23 year term to keep payments lower. It said this was because Mr F might want to change from contract work to working as an employee, which might mean a drop in income. They did not want their outgoings stretched if this happened. So Mr and Mrs F discussed with Legal & General what would happen if Mr F's work status changed.

Legal & General now say Mr and Mrs F had to reduce monthly debt payments due to an expected drop in income. It points to a file note in late September saying Mr F's work contract had not been renewed and he wanted to put the re-mortgage on hold. But this happened after Legal & General had recommended debt consolidation. A note made the same day says Mr and Mrs F and the lender were happy to proceed. It seems unlikely this would have happened if there had been a significant reduction in Mr and Mrs F's income.

An addendum to the suitability letter says Mr and Mrs F wanted to consolidate loan and credit card debt as having one manageable payment was more important to them than the increased cost. The declaration – signed by Mr and Mrs F in October 2005 – says Legal & General recommended debt consolidation as it was likely to reduce the overall cost. None of the documents say they needed to consolidate debt to reduce their monthly debt payments.

I'm not persuaded Mr and Mrs F needed to consolidate the debt. I don't think Legal & General's records explain or support its recommendation. I don't think the initial reduction in Mr and Mrs F's monthly debt payments justified the increased costs overall. I think it's reasonable for Legal & General to pay compensation to Mr and Mrs F for the increased cost of consolidating the debt and to refund its brokers fees with interest.

### **my final decision**

My decision is that I uphold this complaint. I order Legal & General Partnership Services Limited to refund its brokers fees with interest to the settlement date at 8% simple if paid up front or at the mortgage rate if added to the mortgage. I also order it to:

- (a) calculate the monthly payments made to service the consolidated debt from mortgage completion to date of settlement;
- (b) calculate the amount of the debt still outstanding as part of the mortgage balance as at date of completion;
- (c) calculate how much it would have cost the consumers to pay back the debt had it not been consolidated (if a loan, this is the monthly payment times the number of months left, if a credit card, assume the balance and monthly payments stayed constant);
- (d) add together the first two figures, deduct the third and pay the result as a lump sum.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs F to accept or reject my decision before 4 January 2016.

Ruth Stevenson  
**ombudsman**