

complaint

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

background

Legal & General recommended a 15 year repayment mortgage in 2006. It also advised them to consolidate an unsecured loan. Mr and Mrs R say the advice was unsuitable as:

- Consolidating a short term loan into the mortgage meant it cost more. They did not need to reduce their monthly outgoings.
- They had an endowment policy, so did not need a repayment mortgage.

The adjudicator recommended that the complaint should be upheld. She said:

- The evidence did not suggest Mr and Mrs R needed to consolidate the loan. Their income was enough for the mortgage and loan repayments. They did not have other debts. The interest rate on the loan (6%) was only slightly higher than the 5.29% interest rate on the mortgage. The recommendation to consolidate the loan was not suitable.
- Mr and Mrs R's endowment policy was not guaranteed so it might not repay the mortgage. The fact find said Mr and Mrs R wanted to be sure the mortgage would be repaid. In the circumstances, a repayment mortgage was suitable.

The adjudicator recommended that Legal & General pay compensation to Mr and Mrs R. She said it should refund the portion of the broker fees relating to the consolidated debt, with interest. It should also compensate them for the additional cost of consolidating the loan.

Legal & General did not agree. It said the adjudicator relied on the limited information in the fact find and had not taken into account Mr and Mrs R's discretionary spending and family costs, such as school trips and gifts. It said Mr and Mrs R had no savings and their bank statement before the re-mortgage showed they spent almost all their income.

my findings

I have considered all the available evidence and arguments to decide what is 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.

I am not persuaded the advice to consolidate the debt was suitable. From the evidence I have seen, I am not persuaded Mr and Mrs R would have had difficulty making loan repayments. While Legal & General now says they had expenses not set out in the fact find, it relied on this when recommending the mortgage. I am not persuaded it raised at the time any concern that Mr and Mrs R had other expenses that ought to be taken into account. The letter of recommendation says while Mr and Mrs R could afford a mortgage with a shorter term, they chose a longer term to keep monthly payments lower. This suggests Legal & General believed at the time they could afford higher monthly debt repayments.

While the costs of consolidating the loan were explained to them, the mortgage was sold on an advised basis. I find it reasonable for Mr and Mrs R to rely on Legal & General's advice. It is not, in my view, enough to say they chose to go ahead with the mortgage.

Legal & General's advice meant instead of the loan being repaid within four years it will be repaid over 15 – increasing the cost. In the circumstances, I find it fair and reasonable to require Legal & General to pay compensation to Mr and Mrs R for this additional cost. I also find it fair and reasonable to require Legal & General to refund the portion of its broker fees relating to the amount of the mortgage loan used to repay the consolidated loan.

I am satisfied from the evidence that Mr and Mrs R wanted to be sure the mortgage would be repaid at the end of its term. The endowment policies did not guarantee this. The mortgage they refinanced was also on a repayment basis. Payments were affordable. In the circumstances, I am satisfied the recommendation of a repayment mortgage was suitable.

my final decision

My decision is that I uphold this complaint. I order Legal & General Partnership Services Limited to:

1. Pay an amount to Mr and Mrs R equal to the result of:
 - a) The amount they have paid in capital and interest to their mortgage account relating to the consolidated debt; *plus*
 - b) The amount now on their mortgage balance relating to the consolidated debt; *less*
 - c) The cost of repaying the debt had it not been consolidated.
2. Refund the proportion of its broker fee relating to the amount of the mortgage loan used to repay the consolidated debt. It should pay interest on this from the date of payment to the date of the refund, at 8% if the payment was made upfront or at the mortgage rate if added to the mortgage.

If Legal & General Partnership Services Limited considers it has to deduct tax from the interest element of my award, it should send Mr and Mrs R a tax deduction certificate when it pays them. They can then use that certificate to try to reclaim tax if they are entitled to do so.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs R to accept or reject my decision before 29 June 2015.

Ruth Stevenson
ombudsman