

complaint

Mr and Mrs B complain that they were mis-sold a mortgage by an appointed representative of Legal & General Partnership Services Limited ("L&G").

background

Acting on advice from L&G, Mr and Mrs B re-mortgaged. In doing so, they shortened the term of their mortgage from 13 to 9 years, consolidated some unsecured debt and fixed their interest rate for seven years. They paid an early repayment charge ("ERC") to their existing lender of £550.

Mr and Mrs B's representative complained that the mortgage was mis-sold. When the complaint came to this service, our adjudicator didn't consider the debt consolidation to have been suitable. This was because there were two loans consolidated. One appeared to have been at 0% interest. And the other was for a comparable term to the new mortgage, but at a higher interest rate. The result was that consolidation significantly increased the overall costs of the loans. Mr and Mrs B had significant disposable income and so didn't need to consolidate to achieve short term savings. L&G accepted this, and offered to make redress for the debt consolidation.

However, Mr and Mrs B's representative didn't accept that outcome. It asked that an ombudsman review the case. It said that there was no need to re-mortgage before the ERC period expired. Had Mr and Mrs B not done so, and not consolidated the debt, they could have used the additional funds following the ending of one of the loans to overpay the mortgage and achieve a term reduction that way.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I'm in agreement with all parties that the debt consolidation was unsuitable, and I note that L&G has already agreed to pay redress for that. I therefore concentrate on the aspect of the case that Mr and Mrs B's representative asked us to review, the ERC.

This re-mortgage took place in early 2007. Mr and Mrs B fixed their interest rate for seven of the nine years of the now reduced mortgage term. The paperwork records that they were concerned about the potential impact of rising interest rates and wanted to insure against that. The suitability record reminded Mr and Mrs B that they could wait until the end of the ERC period – around another year – and re-mortgage without penalty then. It went on: *"However, you wished to complete your mortgage now rather than wait to take advantage of the lower monthly payments made and fixed rate available"*.

Mr and Mrs B wrote a note, a copy of which is on the file. That note reads *"We appreciate that we are paying off a penalty which runs out next year however we are quite happy to pay this off as we feel interest rates will continue to rise over the coming year so we want to fix our mortgage rate at this moment in time for a longer period"*. The note is signed by both Mr and Mrs B.

In short, Mr and Mrs B understood that an ERC was payable. But their over-riding priority was to mitigate against the risks of interest rates going up – meaning that any deal available

to them a year later would be at a higher rate, and so more expensive over the rest of the term. In order to mitigate that risk, they were prepared to pay the ERC.

So the mortgage achieved their objective of fixing their interest rate as soon as possible. The adviser reminded them that they didn't have to go ahead at that point, but they decided that they wanted to so the adviser recommended a long term fixed rate as they required. The recommendation met their needs and circumstances. It was suitable.

my final decision

For the reasons I have given, I uphold this complaint in respect of the debt consolidation only. I direct Legal & General Partnership Services Limited to:

- Calculate the amount Mr and Mrs B have paid, in interest and capital, in respect of the consolidated debt to date of settlement;
- Calculate the amount of the consolidated debt still outstanding as part of their mortgage balance as at date of settlement;
- Calculate how much it would have cost Mr and Mrs B to repay the debt had it not been consolidated;
- Add together the first two figures, deduct the third and pay the result as a lump sum to Mr and Mrs B;
- To the extent that the broker fee was increased because of the unnecessary debt consolidation, refund the difference, adding interest at the mortgage rate to date of settlement.

As Mr and Mrs B have since re-mortgaged again, they will need to provide evidence of their mortgage arrangements and also of the consolidated loans to L&G in order for the calculation to be done. While I can't direct them to provide that evidence, I trust that it will be made available.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs B to accept or reject my decision before 9 March 2015.

Simon Pugh
ombudsman