

## **complaint**

Mr T and Mrs L complain they were mis-sold a mortgage by an appointed representative of Legal & General Partnership Services Limited.

## **background**

Mr T and Mrs L had a mortgage taken out in 2006. Just over a year later, in 2008, they re-mortgaged on L&G's advice. In doing so they paid an early repayment charge (ERC) to their existing lender of just under £3,000. They consolidated some unsecured debt, and also financed advice on the making of a will provided by a third party.

Mr T and Mrs L are now represented by a claims management company (CMC). On their behalf, the CMC says the advice was unsuitable. They shouldn't have re-mortgaged, or not then, and so shouldn't have incurred the ERC. And they shouldn't have been advised to consolidate their unsecured debt.

L&G thought the mortgage was broadly suitable. But it offered to refund the interest incurred by adding the cost of the will to the mortgage, plus £150 compensation. Our investigator also thought that Mr T and Mrs L shouldn't have been advised to consolidate their credit card debt – though he thought doing so with the loan was suitable. So he suggested the cost of that should be refunded, and a further £150 compensation paid. As that didn't resolve the complaint, it now comes to me for a final decision to be made. I've reached a different view of the case, and so I issued a provisional decision first so the parties could comment on my thinking. I said:

I can't see any good reason as to why this mortgage went ahead – or, at least, went ahead at this time. It was only just over a year since Mr T and Mrs L last took out a mortgage. They don't appear to have been in financial difficulty. Their monthly disposable income wasn't huge, but neither was their overall income – so in relative terms they weren't, it seems, struggling.

I've not been given any evidence that there was a particular urgent need to consolidate their debt. The record of suitability says that the reason for doing so was that Mr T and Mrs L wanted one manageable payment each month – but I don't think having three direct debits is significantly less manageable than having one each month. And given the costs of achieving this, I don't think this was a suitable course of action.

A very small credit card balance, and a personal loan with three years to run, were added to a mortgage term of over 20 years – significantly increasing the overall interest paid. A £3,000 ERC, plus additional interest on the debt, was paid to achieve a saving of less than £100 per month. The additional costs are substantial, and I don't think there was any pressing need to incur them. A re-mortgage could have awaited the end of the ERC period, and I don't think there was any need to consolidate the debt, then or later.

I accept that Mr T and Mrs L signed statements confirming they were happy to proceed. I don't doubt they were. They were acting on the advice they'd received – but that doesn't make it good advice. I think it's fair that the ERC and the additional costs of debt consolidation are refunded to them.

L&G has offered to refund the interest charged on the will, plus £150 compensation. I think that's a fair offer. I don't think the compensation needs to be increased beyond that. I've set out above that the advice caused Mr T and Mrs L financial loss, which needs to be refunded to them. But I've seen no evidence that the loss caused them particular distress or inconvenience – or even that they were aware of it until advised by the CMC.

The CMC didn't reply to my provisional decision. L&G did, and it didn't accept what I said. It said it had already agreed to refund the costs of consolidating the credit card. It said Mr T and Mrs L were aware of the ERC and decided to go ahead without waiting. And it provided an internal note the broker wrote at the time, suggesting Mr T and Mrs L wanted to consolidate the debts to reduce their outgoings, so they could use the savings to make overpayments – so they could pay their mortgage off sooner to move abroad.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, and having reconsidered all the evidence, I haven't changed my mind. As I said in my provisional decision, there's no doubt Mr T and Mrs L knew they were re-mortgaging and paying the ERC, but that's not the issue. The issue is whether that was suitable; I don't think it was.

The note about moving abroad is new evidence that L&G hadn't provided before. But I don't think it adds much to the question of whether the mortgage was suitable. If Mr T and Mrs L did want to pay their mortgage off sooner, it's not clear why the adviser recommended increasing the balance and not shortening the term. And this note doesn't match the advice recorded in the recommendation at the time – that it was better for Mr T and Mrs L to have one direct debit each month rather than three. The note says that there are initial costs to consolidation but larger savings overall; but I think in fact it's the other way round. Mr T and Mrs L would reduce their outgoings – but incur much greater costs overall. If Mr T and Mrs L's objective really was to pay their mortgage off as soon as possible, I'm not persuaded this recommendation achieved it.

### **my final decision**

For the reasons I've given, my final decision is that I uphold this complaint. I direct Legal & General Partnership Services Limited to:

- Refund the ERC, adding interest at the mortgage rate Mr T and Mrs L have paid from time to time;
- Refund the additional costs of debt consolidation, calculated as
  - The interest charged to date at the rates Mr T and Mrs L have actually paid from time to time; plus
  - The amount of the debt currently remaining outstanding on their mortgage balance; less
  - What it would have cost to pay the debt off unconsolidated
- Refund the additional broker fees charged as a result of the increased balance due to the ERC and debt consolidation, adding interest at the mortgage rates Mr T and Mrs L have paid from time to time;
- Pay the offer previously made of an interest refund and £150 compensation in respect of the wills advice.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T and Mrs L to accept or reject my decision before 30 April 2020.

Simon Pugh  
**ombudsman**