

complaint

Mr and Mrs F's representative complains that they were mis-sold a mortgage by an authorised representative of Legal & General Partnership Services Limited ("L&G").

background

In 2005 L&G arranged a remortgage for Mr and Mrs F. The new mortgage was for around £40,000 over nine years, and replaced a mortgage with another lender with an outstanding balance of just over £20,000. Around £11,000 of the new lending was used to consolidate two unsecured loans and debts on two credit cards.

In 2014 Mr and Mrs F's representative complained that L&G's advice had been unsuitable. It said L&G should have advised Mr and Mrs F to remortgage with their former lender, to save on set-up costs, and that L&G's recommendations to consolidate debt and extend the term of the mortgage were inappropriate. L&G didn't uphold the complaint and nor did our adjudicator, so the case came to me for a decision. I issued a provisional decision to which both parties have responded.

my findings

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

set-up costs

Mr and Mrs F's representative said they paid set-up costs of around £6,200 for the new mortgage, and that L&G should have advised them to seek a new product from their former lender to save those costs. This total includes around £450 for wills advice, which was added to the mortgage. But I found provisionally that this would have been paid to a wills adviser, and if Mr and Mrs F didn't receive the advice they could have repaid the money to the mortgage. So I didn't consider it to be a set-up cost of the mortgage. Mr and Mrs F's representative says in response to my provisional decision that the sale of the will was part of the mortgage process, but I find that Mr and Mrs F didn't need to pay for the wills advice to obtain the new mortgage.

The total set-up costs cited by Mr and Mrs F's representative also included a payment protection insurance (PPI) premium of just over £3,000. There has apparently been a separate complaint about the PPI, but the representative said it should also be taken into account in this complaint. The remortgage created the occasion for the sale of PPI, but L&G's advice on PPI was separate from the mortgage advice. So I found provisionally that the PPI wasn't relevant to this complaint. In response Mr and Mrs F's representative says the PPI premium was part of the mortgage sale - but again, I find that Mr and Mrs F didn't need to pay for the PPI in order to obtain the mortgage.

The other costs include an early repayment charge of around £650 from Mr and Mrs F's former lender, and fees and charges totalling around £2,000 for the adviser, the new lender, and legal and valuation costs. Mr and Mrs F's representative said they incurred these costs unnecessarily because their former lender would probably have given them a suitable product if they had asked, without charging these fees.

The mortgage Mr and Mrs F held with their former lender was on a tracker rate which had around 17 months to run at the time of the remortgage. A 'Mortgage Record of Suitability'

(MRS) document prepared by L&G and signed by Mr and Mrs F said they had “*stated a preference for knowing what the absolute maximum monthly payment will be for the next specified number of years*”, and their former mortgage didn’t achieve that. In the circumstances I found provisionally that if Mr and Mrs F had asked their former lender to move them onto a new fixed rate product while their tracker product still had over a year to run, they would probably have had to pay arrangement and product fees, and an early repayment charge.

In response to my provisional decision Mr and Mrs F’s representative says they “*should have remained with [their former lender] until the end of the tracker rate*”. It says that including set-up costs, Mr and Mrs F paid more under the new mortgage than they would have done under their old mortgage and unconsolidated debts. But if Mr and Mrs F had done that, they would not have achieved their objective of fixing their maximum mortgage payment. So overall I don’t find that L&G’s advice to take a new mortgage was unreasonable.

suitability of debt consolidation

Mr and Mrs F’s new mortgage was on a two year fixed rate, to be followed by a tracker rate. The fixed rate was lower than the tracker rate on their previous mortgage, and lower still than the rates they were paying on the other debts they consolidated into the new mortgage. So the monthly cost of Mr and Mrs F’s mortgage and consolidated debts fell substantially.

Mr and Mrs F’s representative said L&G’s advice to consolidate the credit card debts was correct, but that consolidating the other two unsecured loans will cost Mr and Mrs F nearly £1,100 over the term of the new mortgage, because they will repay the debts over a longer period than originally due. At the time of L&G’s advice, one of the unsecured loans had an outstanding balance of around £3,400 and just under two years to run. The other loan had a balance of around £2,500 and around a year and a half to run. The remortgage extended the term of each loan to nine years and secured the loans against Mr and Mrs F’s property.

A ‘client review’ document prepared by L&G showed that Mr and Mrs F already had a small monthly surplus after paying their former mortgage, credit cards and loans. The remortgage was going to reduce their mortgage and credit card payments further. The ‘client review’ also shows that Mrs F’s income was likely to increase substantially within 12 months. In this context my provisional view was that it wasn’t clear that Mr and Mrs F wanted or needed to consolidate the unsecured loans, and so I found provisionally that L&G’s advice on that was not appropriate.

L&G didn’t agree with my provisional finding. It says the advice documents show that Mr and Mrs F’s “*main objective*” was to reduce their outgoings, and that if they hadn’t consolidated the unsecured loans, their monthly disposable income - which was around £90 before the remortgage - would only have risen by around £66.

Having considered this argument carefully, I don’t agree. The advice documents indicate that Mr and Mrs F were interested in consolidating debt, but don’t show they wanted to do it at any cost. And in this context L&G was obliged to recommend whether it was actually suitable to consolidate these particular debts.

The advice documents show the combined monthly cost of Mr and Mrs F’s old mortgage, the credit card debts and the unsecured loans as around £830. If the unsecured loans *hadn’t* been consolidated, it seems the combined monthly cost of those loans and a new mortgage (excluding the loans, but including the credit card debts) would have been around £720 - a reduction of over £100.

So on balance I find that the appropriate advice in this case would have been to consolidate the credit card debts, but not the unsecured loans. That would have more than doubled the monthly disposable income of Mr and Mrs F, while avoiding the need to extend the term of the unsecured loans by seven years or more.

To put things right, I find that L&G should compensate Mr and Mrs F for the debt servicing costs arising from its advice to consolidate the unsecured loans. Where fees and charges were linked to the value of the mortgage, L&G should also refund any part of those fees that was charged because the unsecured loans were added to the mortgage.

change to mortgage term

Mr and Mrs F's representative said L&G extended the mortgage term from five years to nine years without consulting them. L&G set out its understanding of Mr and Mrs F's financial position in the 'client review' document, based on information they had provided. This said Mr and Mrs F's previous mortgage began in 2004 and had a term of ten years, so when they remortgaged it would have had nine years to run. In the MRS document L&G's adviser said *"I have recommended a term [of] 9 years in line with existing arrangements"*.

Mr and Mrs F's representative said the information in the 'client review' was wrong, and points to a Land Registry entry showing the former lender's charge as dating from 2000, not 2004. The representative said this means the adviser failed to make sure the mortgage was appropriate to the clients' needs. But I found provisionally that in the circumstances it was reasonable for L&G to rely on what Mr and Mrs F had said about their mortgage, without further checks.

Mr and Mrs F's representative accepted my provisional finding on this point, so I find that L&G's advice on the mortgage term was reasonable in all the circumstances.

my final decision

For the reasons set out above, my final decision is to uphold this complaint in part, and to order Legal & General Partnership Services Limited to:

- calculate the amount to date of settlement that Mr and Mrs F have paid, as interest and capital repayments, to that part of the mortgage balance representing the two consolidated unsecured loans;
- calculate the amount of consolidated debt representing those loans still outstanding at the date of settlement;
- calculate the amount Mr and Mrs F would have paid to clear the loans if not consolidated;
- add together the first two figures, deduct the third and pay the result as a lump sum to Mr and Mrs F; and
- refund to Mr and Mrs F any other amounts they have paid because the unsecured loans were consolidated into the mortgage (such as the relevant proportion of any fees and charges that were calculated on the basis of the value of the mortgage), together with interest at the mortgage rate for the period between the date of the mortgage advance and the date of settlement.

Tony Stafford
ombudsman