complaint

Mr and Mrs H complain that an authorised representative of Legal & General Partnership Services Limited (L&G) gave them poor advice when they were applying for a mortgage. Mr and Mrs H are represented by a claims management company (CMC).

background

In 2007 Mr and Mrs H wanted to buy a house. L&G recommended a mortgage and associated unsecured loan, and also that they should consolidate other debt that they had.

Mr and Mrs H say that the mortgage wasn't affordable, didn't re-finance all of their other debt and that the adviser under estimated their living costs. They also say that the unsecured loan provided would become expensive if they changed lenders. They say L&G's advice has led to them suffering financially and they have had difficulties in paying the mortgage.

L&G says Mr and Mrs H were first time buyers who had no savings and substantial debt. It says the recommended mortgage and loan allowed them to buy their first home and manage their outgoings. It says that, despite some anomalies in the figures provided, these were most likely provided by Mr and Mrs H and didn't mean the advice was unsound. It goes on to say that, although not all the debt could be consolidated, Mr and Mrs H did have a reasonable surplus of income over expenditure. It also says that the term of the mortgage – 35 years – was discussed and that Mr and Mrs H agreed to it.

Our adjudicator didn't recommend that the complaint should be upheld, so it has been referred to me.

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've looked separately at the main parts of the complaint.

Was the new lending affordable?

Mr and Mrs H were first time buyers when they approached L&G for help finding a mortgage. And they also had substantial unsecured debt. I understand that they were paying £400 per month rent and about £882 per month towards their debts, which were split between credit cards and loans. After the mortgage and loan were in place, Mr and Mrs H had about £12,000 to pay toward their debt. I understand they paid off one of their loans, removing a monthly payment of £293 immediately, but I don't know whether they also reduced any of their other debt. If they did, they could have been left with monthly debt commitments of about £500 and a mortgage of about £812 – about £1,300 in total. That's not much different from their initial position, except, of course, that they would eventually own a property.

The new commitments need to be set against Mr and Mrs H's net income of £2,273 as declared on their mortgage fact find. Mr and Mrs H's representative says the adviser understated some of Mr and Mrs H's living expenses. I agree they do look conservative in some areas. However, it seems that Mr and Mrs H met the adviser several times and had an opportunity to discuss their outgoings. And – whether some of the figures were low or not – Mr and Mrs H seem still to have had a sufficient surplus to meet their commitments.

The CMC says that the mortgage was clearly not affordable as Mr and Mrs H started to struggle to make payments within a few months. I've looked at statements for the first few years of the mortgage and although I can see that Mr and Mrs H seem to have underpaid in some months, in others they overpaid significantly. Overall, I can't see that the mortgage statements show that Mr and Mrs H were struggling. There are some returned payments, but these are infrequent and are from 2010 onwards. They may even have been pre-arranged as I understand repayment holidays were available on this mortgage. The CMC says other areas of Mr and Mrs H's lifestyle have suffered as they prioritised paying the mortgage. The available evidence doesn't persuade me that this is the case.

Was the length and type of mortgage appropriate?

Mr and Mrs H were both in their early thirties when they took out the mortgage. A 35 year term would take them to their mid sixties – about the time they might qualify for state pensions. It doesn't seem unreasonable to me that a mortgage term would run for that long. The mortgage was on a capital and repayment basis, which was appropriate given that Mr and Mrs H had no other way to pay the capital.

Was the debt consolidation optional?

Mr and Mrs H say they were told that they had to consolidate their debt in order to get the mortgage. They also say debt consolidation wasn't properly discussed. L&G on the other hand says that Mr and Mrs H wanted to consolidate more debt than they eventually did: the reason they didn't do that was because L&G couldn't find a lender that would lend them enough for them to do that. I've seen the adviser's handwritten notes from the time, which do seem to indicate that the consolidation was being discussed. The summary of demands and needs sent to Mr and Mrs H gives details of the likelihood of increased costs when debts are consolidated over a long period. I appreciate that Mr and Mrs H don't recall this from their discussion. But I do think that, as this was an important financial decision, they could reasonably be expected to read the documents sent to them and query anything they didn't understand.

Mr and Mrs H also say that they now realise that neither their situation beforehand nor the mortgage was really affordable and they should have focussed on repaying their debts before buying a house. That may be so, but I have to make my decision on what happened at the time, rather than with the benefit of hindsight.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs H to accept or reject my decision before 16 July 2015.

Susan Peters
ombudsman