

complaint

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

background

Legal & General recommended the mortgage to Mr and Mrs H in 2010. At that time they had a mortgage and a car finance loan of about £4,000. They say the recommendation to consolidate the car loan was unsuitable.

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

- The mortgage recommendation was suitable. Despite the early repayment charge, fees and costs of re-mortgaging, the new mortgage put Mr and Mrs H in a better financial position.
- The recommendation to consolidate the car loan was not suitable. It increased the cost of the borrowing. Any short term benefit was outweighed by the long term costs.

The adjudicator recommended that Legal & General pay compensation for the additional cost of the consolidated debt and refund any portion of the brokers fees related to the consolidated debt.

Legal & General did not agree. In summary, it said the debt consolidation had allowed Mr and Mrs H to meet their aims to reduce the mortgage term, make over payments, pay off the car loan at a lower rate of interest and save for their holiday.

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.

The mortgage was recommended to Mr and Mrs H. So Legal & General had to meet the rules in the Mortgage Conduct of Business sourcebook (MCOB) for advised sales – such as obtaining all relevant information and ensuring any mortgage it recommends is suitable for the customer's needs and circumstances.

Legal & General did a "fact find" with Mr and Mrs H. They said they wanted to reduce the mortgage term, have low monthly payments in the first few years, flexibility to make over payments and to pay the car loan back at a lower interest rate. They felt the fixed interest rate on their current mortgage was too high. They wanted to save for a holiday the following year. I find the mortgage product recommended by Legal & General met these aims. Mr and Mrs H's monthly payments reduced and the overall cost of the mortgage was lower than their previous mortgage. I find the recommendation to re-mortgage was suitable.

I appreciate Mr and Mrs H wanted to reduce their monthly debt payments and consolidating the car loan helped with this. I can also see Legal & General made Mr and Mrs H aware that, despite the lower interest rate, paying the loan over a longer period was likely to increase the overall cost of repaying the debt.

But this was a recommended mortgage. It is not sufficient for Legal & General to say it gave information to Mr and Mrs H to allow them to decide whether to proceed. I am not persuaded there was any pressing need for Mr and Mrs H to consolidate the car loan. I have seen nothing to suggest they would have had difficulty making monthly debt payments or needed to consolidate the loan in order to re-mortgage.

I am not persuaded the short term benefit to Mr and Mrs H of lower monthly payments outweighed the increased costs of consolidating the debt. I do not find the recommendation suitable. I find it fair and reasonable to require Legal & General to compensate Mr and Mrs H for the additional costs of consolidating the car loan, as set out below.

my final decision

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

1. If the broker fee was related to the amount of the mortgage loan, refund the amount related to the consolidated debt plus interest at 8% (if the fee was paid upfront) or interest at the mortgage rate (if added to the mortgage) from the date the fee was paid to the date of settlement.
2. (a) Calculate the amount Mr and Mrs H paid to their mortgage account in capital and interest related to the consolidated debt from taking out the mortgage to the date of settlement.
(b) Calculate the amount of consolidated debt still outstanding on Mr and Mrs H's mortgage balance.
(c) Calculate the amount Mr and Mrs H would have paid to repay the debt had it not been consolidated.
(d) Pay the result of (a + b) – c to Mr and Mrs H.

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 H 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 H to accept or reject my decision before 27 July 2015.

Ruth Stevenson
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