

## complaint

Mr C and Miss P complain through their Claims Management Company ("CMC") that Legal & General Partnership Services Limited ("L&G") mis-sold them a mortgage.

## background

Mr C and Miss P were on a fixed rate that was coming to an end and were looking for a new product. They are unhappy with the mortgage which L&G recommended to them. Our adjudicator thought that the mortgage was suitable except that L&G should not have advised them to consolidate a loan. For that reason our adjudicator recommended that this complaint should be upheld. L&G disagreed saying in summary that as Mr C and Miss P wanted to reduce their outgoings, the consolidation made sense

## my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Mr C and Miss P make several complaints about how L&G dealt with their mortgage application including:

- That they had to pay an Early Repayment Charge ("ERC") of £1,318 when the previous mortgage had only 2 months to run.
- They should have got free legal fees but had to pay.
- The advice to consolidate a loan of £1,800 with 19 months to go was unsuitable.

L&G did not agree with the complaint saying

- The ERC was much less than the CMC quoted and as Mr C and Ms P moved onto a lower rate of interest, they did not suffer financially.
- Mr C and Miss P got a cashback and a reduction in the broker's fee which compensated for not getting free legal fees.
- The consolidation of the loan made sense. Mr C and Miss P wanted to reduce their outgoings and increase their savings in preparation for Miss P taking a "baby break".

I agree with L&G that the mortgage recommended with a lower rate of interest was suitable and that it made sense for Mr C and Ms P to pay the ERC which was in fact only about £400. I see that the factfind referred to the ERC of £1,318 but that was not in fact the true figure I also agree that Mr C and Ms P did not suffer financially by not getting the free legal fees.

The factfind notes that this couple had savings of £11,000 and were saving £300 per month for what they describe as a "baby break". They took out an unsecured loan of £6,000 in January 2006, which they had been paying off at £98 per month. In 2010, it had 18 months to run and an outstanding balance of £1,883. The reason for the consolidation is recorded in the Mortgage Record of Suitability Report ("MROS") dated 5 July 2010 and signed by Mr C and Miss P on 29 July 2010. *"I consider this is suitable for you because your aim was to reduce your monthly outgoings"*. But the CMC says that it is unsuitable to consolidate a small debt into a 23 year mortgage.

I find the MROS unsatisfactory. It says that the amount of debt being consolidated is £9,113. But part of this is a second mortgage of about £7,000 owed to the existing lender. In the MROS, the adviser treats the second mortgage and the unsecured loan as the same for the

purpose of debt consolidation. The problem in not separating out the secured second mortgage and the unsecured loan is that it does not allow Mr C and Miss P to see what the actual cost is of consolidating the debt of £1,800 into a mortgage over 23 years. It is also confusing in that it joins together a debt that must be repaid if Mr C and Miss P want to remortgage and a debt that they can choose to consolidate into the mortgage or pay separately. I think it likely that the adviser was confused as to the distinction between the 2 types of debt and this would have affected the advice he could give.

The recent evidence suggests that Mr C and Miss P's savings may not have been as high as £11,000-although we have only seen evidence of Miss P's savings at the time and not those of Mr C. But at the time of the advice the assumed savings were £11,000 and Mr C and Miss P were saving £300 per month. The remortgage without the debt consolidation meant that they had more disposable income. Although I appreciate that they were saving for a baby break, it does seem their aims could be achieved without the debt consolidation. I also do not consider that Mr C and Miss P could have made an informed choice given the confused manner in which the advice to consolidate their debts was presented to them. So, for those reasons I intend to uphold this complaint.

### **my final decision**

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

1. Work out the amount paid to date in capital and interest payments for the consolidated unsecured loan;
2. Calculate how much remains on Mr C and Miss P's mortgage balance for this consolidated loan;
3. Work out how much would have been paid to clear this loan if it had not been consolidated; and
4. Add together the first and second figures, take away the third and then pay the result as a lump sum.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss P to accept or reject my decision before 1 April 2016.

Gerard McManus  
**ombudsman**