

## complaint

Mr and Mrs P through their Claims Management Company ("CMC") say that an appointed representative of Legal & General Partnership Services Limited mis-sold them a mortgage.

## background

L&G advised Mr and Mrs P on a remortgage in 2008. The CMC says that the advice was unsuitable as it included advice to pay an Early Repayment Charge ("ERC"). Our adjudicator recommended that this complaint should be upheld on the basis that the advice to consolidate unsecured debts into the mortgage was unsuitable as was the advice to pay the ERC. L&G disagreed saying in summary that the consolidation of the debts made the mortgage affordable.

## my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. L&G gave advice to Mr and Mrs P when they remortgaged in 2008. This advice resulted in them consolidating their debt but also paying an ERC. The remortgage was to a higher rate of interest-to 5.49% from 4.99%. Mr and Mrs P would not have had to incur the ERC had they waited a further 8 months.

Mr and Mrs P met with the mortgage adviser in February 2008. At that time Mr and Mrs P had an existing repayment mortgage of £29,082 with a fixed rate to 31 December 2008. They also had loans and credit card debts of £7,234 costing £230.25 each month. The L&G adviser recorded that they wanted to raise £3,300 for home improvements. L&G says that it believes *'the MRoS (Mortgage Record of Suitability) covered debt consolidation, capital raising and the early repayment charge in sufficient detail'*

The MRoS shows that Mr and Mrs P had a net joint income of about £1,500 per month. They were paying a mortgage of £203 per month. The L&G adviser recommended that Mr and Mrs P should consolidate £7,235 of unsecured debt. This would work to Mr and Mrs P's disadvantage as they would have to pay more interest because the mortgage term was longer than the period they would be expected to repay this debt. So, the total interest they would have to pay was higher. Obviously there needs to be a good reason for the L&G adviser to recommend something that appears to be to Mr and Mrs P's disadvantage. Normally an adviser may recommend this where there is an affordability issue but there doesn't appear to be one here. Because I consider that this is a recommendation without a compelling good reason I consider the advice to consolidate the debt is unsuitable

In addition to securing the unsecured debts Mr and Mrs P got £3,500 for home improvements. They also incurred an ERC because they took this new mortgage immediately rather than sit out the ERC period. Although the L&G adviser recommends the mortgage, by paying the ERC and paying a higher rate of interest, Mr and Mrs P will be worse off than if they had waited out the penalty period. Again, I am unable to see what the compelling reason or need was that led to this recommendation. As the capital raised is for home improvements, unless there was some emergency-which is not

obvious-Mr and Mrs P would have been better advised to wait. So, I believe that this advice is also unsuitable and I uphold this complaint.

**my final decision**

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

- Work out the amount paid to date in capital and interest payments for the consolidated debt(1)
- Calculate how much remains on Mr and Mrs P's mortgage balance for the consolidated debt(2)
- Work out how much would have been paid to clear the debt if it had not been consolidated (3)
- Add together (1) and (2), take away (3) and pay the result as a lump sum
- Refund the amount of broker fees and charges in respect of the consolidated debt together with interest at 8% per annum if paid upfront or at the mortgage rate if added to the mortgage.
- Pay Mr and Mrs P the amount the amount they paid as an ERC for their previous mortgage together with 8% interest per annum if paid upfront or at the mortgage rate if added to the mortgage.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 18 February 2016.

Gerard McManus  
**ombudsman**