complaint

This complaint is about a mortgage arranged for Mr G and Miss W by an adviser connected with Legal & General Partnership Services Limited (L&G).

Mr G and Miss W feel L&G mis-sold them a mortgage and they weren't properly advised about debt consolidation. They believe they've been financially disadvantaged as a result. To resolve this complaint, Mr G and Miss W would like compensation.

Mr G and Miss W are represented by a third party I'll call 'R'.

background

On the advice of L&G's adviser Mr G and Miss W took out a new mortgage and borrowed extra money to pay off some outstanding loans. R complained this wasn't a good deal for Mr G and Miss W overall – especially as they'd incurred an early repayment charge (ERC) when they did this. L&G didn't agree so R asked this service to look into Mr G and Miss W's complaint.

Our adjudicator recommended upholding this complaint. She felt that Mr G and Miss W would've been in a better position if they'd waited until the end of the fixed rate period on their existing mortgage before remortgaging – even though they'd still have had to pay the ERC. And that L&G's advice to Mr G and Miss W to remortgage when they did was unsuitable – particularly as they'd moved to a higher rate.

Our adjudicator also felt that the extra cost to Mr G and Miss W of consolidating their debt hadn't been worthwhile – and they hadn't needed to do this. So she recommended L&G should pay Mr G and Miss W compensation to cover all the financial loss she calculated they'd incurred as a result.

L&G disagrees. In summary, it says Mr G and Miss W couldn't have afforded to remortgage without consolidating debt. And the mortgage it recommended enabled Mr G and Miss W to reduce their mortgage term and save money each month.

R disagrees that it was suitable advice to incur the ERC and believes L&G should also compensate Mr G and Miss W for this.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I agree with the adjudicator. Here's why I say this.

L&G recommended Mr G and Miss W to remortgage and consolidate debt in September 2007. The fixed rate on their existing mortgage applied up to the end of November 2008.

the remortgage

I've looked carefully at Mr G and Miss W's financial circumstances at the time they asked L&G to provide mortgage advice. I can see they tended to slip into overdraft by the end of the month. So I can understand why they wanted advice about their options. But their financial position at the time looks reasonably stable to me. Overall, they were managing financially without having any significant money problems. So, despite securing a new fixed rate deal, there was no *urgent* need to remortgage when they did. And if they'd waited until the end of the fixed rate period on their existing mortgage (a little over a year away) Mr G and Miss W would've been significantly better off remortgaging then without consolidating debt that would've been paid off meanwhile.

debt consolidation

Mr G and Miss W consolidated three loans - I'll call these Loan A, Loan B and Loan C.

Loan A cost £190 a month and ran until January 2009
Loan B cost £106 a month and ran until July 2009
Loan C cost £90 a month and ran until September 2010

It seems to me that given the short time Loan A had to run after the end of the fixed rate period on their existing mortgage the extra costs of consolidation when they remortgaged in line with L&G's recommendation made this unsuitable advice.

I think on balance the same argument applies to Loan B – and once Loan A cleared Mr G and Miss W would've had £190 extra spending money – making the monthly repayments on Loan B comfortably affordable for remainder of term.

Loan C would've been easily affordable once Loan A was paid off (and Mr G and Miss W's financial situation would've further improved after 7 months or so when Loan B was gone as well). So I find this loan didn't need to be consolidated either.

There was flexibility on a credit card to cover any short term borrowing requirements for the few months after the end of the fixed rate period on Mr G and Miss W's existing mortgage before the first of their loans ended. And if they'd remortgaged after November 2008 their improved financial position would've enabled any additional credit card balance to be quickly cleared as the starting balance wasn't substantial.

I've taken into account that Mr G and Miss W were around £160 better off each month after taking out the mortgage L&G recommended and consolidating debt in line with its advice. But despite this, I agree with our adjudicator that, looked at overall, Mr G and Miss W would've been better placed to achieve a reduction in their mortgage term (an important consideration for them) if they'd waited to remortgage until November 2008. And they'd have avoided the additional extra cost of consolidating debt.

I think if that if L&G had presented this option to Mr G and Miss W, and explained the costs and benefits of debt consolidation in a way that they understood, Mr G and Miss W wouldn't have remortgaged when they did or consolidated the debt.

the ERC

Mr G and Miss W were liable to pay a £571 ERC until February 2009.

I find Mr G and Miss W would've been better off remortgaging at the end of their fixed rate period (in November 2008) than if they'd waited until the end of the ERC period. The overall financial benefits they'd have gained between November 2008 and February 2009 if they'd done this would've more than offset the cost of paying the ERC.

So I think it's fair and reasonable that L&G should pay Mr G and Miss W as directed below.

my final decision

I uphold this complaint and I order Legal & General Partnership Services Limited to pay Mr G and Miss W as follows:

(A) work out the amount paid to date in capital and interest payments for the consolidated debt;

(B) calculate how much remains on Mr G and Miss W's mortgage balance for the consolidated debt;

(C) work out how much would've been paid to clear this debt if it hadn't been consolidated; and

(D) calculate (A) + (B) – (C) and pay this amount as a lump sum.

(E) refund the amount of the broker fee/charges charged in respect of the consolidated debt, as well as 8% simple interest per annum if paid up front, or at the mortgage rate if added to the mortgage balance

(F) reimburse the difference between the higher rate of the new mortgage and the lower interest rate of the mortgage Mr G and Miss W had before until the end of the previous lender's penalty period. The reimbursement of interest *already* paid should also include interest on the amount refunded at 8% simple per annum from the date of payment to date of settlement

(G) if L&G considers it has to deduct tax from the interest element of my award, it should send Mr G and Miss W a tax deduction certificate when it pays them. They can then use that certificate to try to reclaim the tax if they're entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask R on behalf of Mr G and Miss W to accept or reject my decision before 3 June 2016.

Susan Webb
ombudsman