

complaint

Mr S complains that Legal & General Partnership Services Limited (L&GPS) gave him unsuitable mortgage advice. In particular he says he was not advised to consider remaining with his existing lender and the advice to consolidate unsecured debts onto his mortgage was unsuitable.

Mr S is represented in this matter by a third party.

background

It is not clear how Mr S first came into contact with the appointed representative of L&GPS. From the information available, it appears Mr S discussed re-mortgaging with a representative from L&GPS in 2005.

The fact find noted that Mr S had an existing mortgage with an outstanding balance of £40,000. The interest rate on the mortgage was 5.52% and it appears the rate tracked the Bank of England base rate. The mortgage had 22 years left to run. There is nothing to suggest there were any arrears on Mr S's account, or that he was in any financial difficulty.

L&GPS has said that Mr S wanted to reduce his outgoings and consolidate debt onto the mortgage and he was therefore advised to re-mortgage. However, the fact find information sets out that Mr S had said his main priority was to raise money for home improvements. It does say that Mr S was also interested in consolidating his unsecured debts, but the main reason for the advice was noted as raising additional capital.

The records show that Mr S had a surplus of around £320 per month once all his commitments had been taken into account. Mr S was also due to pay off a car loan within the next few months. After the car loan had been paid off, Mr S would have had an additional £148 of disposable income each month.

The unsecured loan that was consolidated onto the mortgage was due to be repaid within 24 months. The credit card debt that was also consolidated would also have been repaid within 24 months, based on the information recorded.

In late 2014 Mr S's representative contacted L&GPS to complain about the re-mortgage advice Mr S received in late 2005. L&GPS said it did not agree that the advice had been unsuitable and it did not uphold the complaint.

Mr S and his representative were not satisfied with L&GPS's response and referred the complaint to this service.

Our adjudicator said that having reviewed all the information provided, she was not satisfied the advice to re-mortgage was suitable.

She said Mr S was not properly made aware of the costs involved in consolidating unsecured debts onto his mortgage. She accepted that the suitability letter did say it was 'likely' that Mr S would pay more interest over the term of the mortgage if he consolidated unsecured debt. But she said there did not appear to have been any attempt to show Mr S the additional costs, over the longer term.

She also said she had not seen anything to show the adviser had considered whether a re-mortgage, when all the fees involved were taken into account, was a suitable option for Mr S. She noted she had not seen anything that showed the adviser had considered whether Mr S might be better off applying for a further advance with his existing lender.

She accepted that the records showed Mr S wanted to borrow an additional £5,000 for home improvements. But she said that the fees and charges added to the mortgage account, as a result of the re-mortgage, including an early repayment charge (ERC) on Mr S's previous mortgage, were greater than the additional amount Mr S wanted to borrow. (The adjudicator noted that the PPI premium included in the fees added to Mr S's mortgage had since been refunded, but she said that, even after taking this into account, Mr S still incurred a very high level of fees).

She said that if a further advance with Mr S's existing lender had been applied for she thought it was unlikely a new valuation would have been required. Mr S would also have avoided incurring the ERC, adviser fees and legal costs he paid in relation to the re-mortgage.

In view of this the adjudicator said she felt Mr S's complaint should be upheld.

In order to resolve the complaint she proposed that L&G should:

- refund £3,143.29, plus interest to Mr S in respect of the fees added to the mortgage on completion; and
- refund the interest paid on the debt consolidation of £3,842.54 from June 2007 to date. (30 June 2007 being the date that both elements would have reasonably have been repaid had they not been added to the mortgage).

L&GPS did not accept the adjudicator's view and asked for the complaint to be determined by an ombudsman. It said, in summary, that Mr S had expressed a number of preferences including raising a lump sum for home improvements, consolidating unsecured debt, reducing his outgoings and having the flexibility of make overpayments. L&G said the re-mortgage allowed Mr S to achieve all his preferences.

It also said that although the fact find information showed Mr S had disposable monthly income of £319, he used this surplus income to support a family member and for his tax liability. In relation to the car loan that was due to finish within the next few months, L&G said that the fact find information showed Mr S regularly changed his car and funded the cost by way of a loan, which he intended to continue doing. It said as this was the case it did not accepted that the additional £148 per month could be relied upon.

It noted that in addition to the credit card and personal loan Mr S consolidated, he also had another personal loan which he chose not to consolidate. L&GPS argued that this showed Mr S was aware consolidation was optional, and he had made an informed choice to go ahead.

It acknowledged that there was nothing to show that a further advance with Mr S's existing lender was discussed. However, L&GPS said Mr S was free to speak to his lender at any time and it was his choice to seek advice on re-mortgaging. It also said Mr S would not have totally avoided paying fees if he had re-mortgaged with his existing lender.

L&GPS accepted that there were nine months left on Mr S's existing fixed rate and he paid an ERC of around £800 when he redeemed the mortgage early, but it said Mr S chose to pay the ERC as he wanted to benefit from the lower fixed rate immediately. It said Mr S had provided a handwritten statement in 2005 to confirm he wanted to proceed with the re-mortgage before the end of the ERC.

Mr S also provided a response to our adjudicator. He said he felt he was coerced into considering consolidating unsecured debt and borrowing more. He commented he had not changed his car in over seven years and did not provide financial support to a family member.

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 am mindful of everything both parties have said and provided and I have carefully considered all the available information. Having done so, like our adjudicator, I cannot reasonably agree that the adviser took adequate steps to explain the additional cost of debt consolidation to Mr S. I accept that the adviser did refer to the possibility of the costs being greater over the long term, but I am not persuaded this was sufficient.

There is nothing to suggest that Mr S was in financial difficulty when he discussed re-mortgaging in 2005. As this is the case, and he was able to maintain his outgoings and still have a surplus each month, I am of the view that the adviser should have made clear to Mr S the additional costs he would incur over the longer term if he consolidated some of his unsecured borrowing.

I can't reasonably agree that Mr S would have gone ahead with the debt consolidation if he had been fully aware of the additional costs. I note that there is some dispute about whether the surplus income Mr S had was actually accounted for. Regardless of this, I remain of the view that debt consolidation was not in Mr S's best interests and the adviser did not fully explain the long term cost of the debt consolidation.

Likewise, when I consider the costs Mr S incurred in relation to the re-mortgage, the legal fees, survey cost, arrangement fees charged by the new mortgage lender and the ERC, I am of the view that the adviser should have suggested Mr S considered applying for a further advance with his existing lender. I accept L&GPS's point that there may have been some costs involved in applying for a further advance with his existing lender. But I cannot agree that they costs would have similar to the costs Mr S incurred when he re-mortgaged.

I accept that Mr S provided a signed statement to say he was happy to proceed with the re-mortgage during the early repayment period on his existing mortgage, but again I am of the view that if Mr S had been properly informed of the costs involved he would not have gone ahead with the re-mortgage during the early repayment period.

In view of this, my final decision is that I uphold this complaint as I am not satisfied the advice Mr S received to re-mortgage was suitable.

I note that when our adjudicator made her redress recommendation she left off the ERC that Mr S paid when he re-mortgaged. I apologise for this error. I am aware that the adjudicator

has since notified L&GPS of this oversight and confirmed it was her intention to recommend that the ERC was also refunded.

L&GPS has argued that the cost of the ERC was to some extent offset by the lower interest rate Mr S paid after he re-mortgaged. I have considered this argument, but as I am the view that the re-mortgage was not in Mr S's best interests, I am satisfied that the ERC should be refunded. I also note that L&GPS has said the interest saving on this mortgage was around £200, but the ERC Mr S paid was £795.

L&GPS has also queried the method for calculating the redress on the consolidated debt that the adjudicator set out. I have considered the points it has made, and I agree this service's usual approach should be used. I have set this out below.

my final decision

My final decision is that I uphold this complaint. In full and final settlement I order Legal & General Partnership Services to:

- refund £3,143.29, plus interest to Mr S for the fees and costs that were added to the mortgage; and
- refund the ERC of £795.

It should also calculate the redress for the consolidated debt as follows:

- work out how much has been paid, to date, in capital and interest payments for the consolidated debt;
- calculate how much of the consolidated debt remains within the mortgage balance;
- work out how much would have been paid if the debt had not been consolidated;
- add the first and second amount together, take away the third and pay the result as a lump sum.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 1 September 2015.

Suzannah Stuart
ombudsman