complaint

Mr and Mrs A complain that The Mortgage Matters Partnership ("MMP") mis-sold them a mortgage in 2012.

background

Mr and Mrs A - through their representative - say that in 2012 they met with the MMP advisor to discuss reducing the rate of their existing mortgage with a third party ("lender B") which they had taken out one year previously. The mortgage with Lender B was approximately £68,000 and cost Mr and Mrs A approximately £511 per month.

MMP recommended a re-mortgage of £95,500 with a three year fixed rate over 14 years. Mr and Mrs A also had unsecured debts- a loan of about £14,000 and credit card debts of about £3000 - at the time of completion and they consolidated these debts. By consolidating their debt they reduced their outgoings by £280 each month. They say they were unaware that consolidating their debt over a short term would accrue interest over a longer period of time and reduce the equity in their home.

Mr and Mrs A also say that in taking out the mortgage they had to pay an early repayment charge to their existing lender. Mr and Mrs A say that MMP was happy to recommend a mortgage irrespective of whether they could afford it or not.

Our adjudicator upheld this complaint. He said that the mortgage wasn't suitable for Mr and Mrs A. He thought that there wasn't an overriding need to keep their costs down and the advice they received to take out the mortgage was a costly way to reduce their outgoings in the short term as they ended up paying more in the long term.

MMP said that the adviser had conducted a full assessment. Mr and Mrs A weren't having problems meeting their commitments including their mortgage and there was no reason to suggest that the recommendation, which was saving them £280 per month wasn't affordable. Mr and Mrs A had signed a declaration on the key facts illustration confirming this.

In summary MMP said that while there was an additional cost to the clients in taking out the re-mortgage, this had to be taken in context when Mr and Mrs A's priority was to increase their disposable income. A full review of Mr and Mrs A's bank statements shows rather than having disposable income per month they overspent. And it says all the costs were fully discussed and agreed by Mr and Mrs A.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having thought carefully about this case, I have decided to uphold it. I will explain why.

I have looked at the "personal financial review and application form." I can see that Mr and Mrs A's existing mortgage was taken out in August 2011 for a term of 14 years. I also note that the original fixed rate given for their mortgage was due to expire in September 2013. Mr and Mrs A were paying monthly re payments to unsecured debts of approximately £500. On the form Mr and Mrs A have indicated that they sometimes found it difficult to meet their monthly commitments although I understand this was on rare occasions and generally they were able to meet their debt repayments. They also wished to avoid paying a higher percentage lending fee. And I can see that Mr and Mrs A wanted to increase their current spendable income and repay their debts which consisted of a loan and credit card debts. Their priorities were set out on the form.

Mr and Mrs A have signed the form and the early repayment charge disclaimer which states that they were willing to repay £2500 to repay their mortgage with Lender B early. And the form also confirms that the implications of debt consolidation were discussed. And Mr and Mrs A confirmed that they were happy to continue to completion.

The new mortgage completed in August 2012 and required Mr and Mrs A to repay about £775 per month for the first 37 months following which their mortgage would revert to a variable rate for the remainder of the term. Fees were also due in taking out this mortgage.

Whilst I can see that Mr and Mrs A appear to have chosen this mortgage it was the duty of MMP to make sure it was suitable for Mr and Mrs A's circumstances. I'm not satisfied that it was suitable. I say this because:

- At the time they re-mortgaged they still had another year to run before they were no longer liable for the early repayment charge. At the time I am not persuaded that it was necessary to re-mortgage, so incurring their early repayment charge with lender B. If they had waited then they could have avoided this expense. And on balance, I think they could have waited to re-mortgage. They were able to afford their monthly repayments with lender B and pay the unsecured debt.

- Even if Mr and Mrs A would have liked to reduce their outgoings in the short term I don't think they should have been advised to do so. By consolidating their debt they increased the payments to their unsecured debt over the term of the mortgage and secured the unsecured debts on their property. I think these debts could have been repaid within five years and I don't think there was an overriding need to cut down their expenses at the time they took out the re-mortgage. I'm not persuaded that the implications of this were fully understood by Mr and Mrs A. Although I can see that Mr and Mrs A have signed declarations to say that MMP explained the debt consolidation there is nothing to make me think that they fully understood that they were taking on additional costs over a longer term and that MMP pointed out the risks of securing the debt on the property.

- Although I have been sent some bank statements, which show Mr and Mrs A were in overdraft over a couple of months period and used their overdraft facility, this is only a snapshot of their banking circumstances. So I can't say that this shows it was likely that they were in overdraft every month and struggled financially and needed to consolidate their debt. There are many reasons why Mr and Mrs A might have needed to use their overdraft facility over the period they were overdrawn.

For these reasons, although I can understand that in the short term they were cutting down their monthly expenditure, I don't think on balance there was enough reason to consolidate their debt at the time they did, incurring an early repayment charge and securing unsecured debt on their property. I'm not persuaded that there was enough to be gained by re-mortgaging when they did. I don't think Mr and Mrs A's circumstances justified taking out the re-mortgage and consolidating their debt. So I uphold this complaint. MMP should put

Mr and Mrs A in the position they would have been in had they not taken out the mortgage recommended to them.

my final decision

For the reasons given I uphold this complaint. The Mortgage Matters Partnership should:

- Calculate the costs paid by Mr and Mrs A to re-mortgage and repay to Mr and Mrs A the sums paid plus 8% annual simple interest if the fee was paid up front or interest at the mortgage rate if the fee was added to the mortgage up to the date of settlement.
- Calculate the monthly payments to service the amount consolidated for the debts up to the date of settlement ("figure A").
- Calculate how much of the consolidated debts remain as part of the mortgage balance at the date of settlement ("figure B").
- Calculate how much it would have cost Mr and Mrs A to pay back the debts if they hadn't been consolidated ("figure C").
- Then add together figures A and B minus figure C and pay that amount as a lump sum to Mr and Mrs A.

If The Mortgage Matters Partnership considers it should deduct income tax from the 8% interest element of my award it may do so, but should give Mr and Mrs A the necessary certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs A to accept or reject my decision before 12 February 2016..

Nicola Woolf
ombudsman