

## **complaint**

Mr J complains that Legal & General Partnership Services Limited (L & G) mis-sold his mortgage.

## **background**

In 2006 Mr J consulted Mortgage Solutions Swansea Limited (MSS), an authorised representative of L & G, about a mortgage for a property he wanted to buy. On its recommendation he took out a 30-year repayment mortgage with GMAC for £256,595. The interest rate was fixed for 5.79% for two years and then reduced to Bank of England base rate + 1.95%. The property's valuation was £185,000. As Mr J was unable to provide proof of his income of £79,000, the mortgage was self-certified. It was described as a 'near prime mortgage'. There was no broker fee.

Mr J complains that L & G should have recommended a high street mortgage, which would have given him a better interest rate.

The adjudicator did not think that the complaint should be upheld. She was satisfied that the mortgage met Mr J's needs. The interest rate was competitive in the light of there being a high loan-to-value (LTV) and the mortgage being self-certified.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint, including the further comments from both parties since my provisional decision of 25 November 2015.

In my provisional decision I took careful note of Mr J's further comments since the adjudicator's letter. If there were any errors in my understanding of the facts, the parties had an opportunity to let me know in response.

When Mr J approached MSS in 2006, he had been a director of a company since 2003. It was unclear whether he then had company accounts and/or tax documents certifying his income for the purposes of his mortgage application. He mentioned a possible future county court judgment (CCJ), but this was not a factor in MSS's advice because the CCJ had not taken place. He was not in fact a first time buyer. He already owned a property he had bought for cash three years previously. This was his first mortgage application.

A 'near prime mortgage' is a product which is as close to a mainstream or high street mortgage as possible. L & G has produced evidence that other lenders, including high street lenders, were then offering interest rates of 6.5% or 6.75%, so the GMAC rate of 5.79% was competitive. I asked whether Mr J had any option other than a self-certified mortgage in view of the LTV and his earnings.

I had seen the documentation provided by MSS/L & G, including the record of suitability, client review, key facts information and breakdown on lenders. However, since the adjudicator's letter Mr J had now produced evidence from his bank account, accountant and tax returns – as to his available bank funds (exceeding £125,000), modest earnings and substantial dividends. I asked both parties whether Mr J provided these financial details to MSS at the time of the mortgage application. If not, whether payslips were available – and, if

so, whether their availability would have had an impact on the mortgage (and interest rate) to be offered. I also asked whether all or part of Mr J's bank funds and/or dividends were available to be used for the purchase at that time.

Mr J did not bring his complaint to MSS/L & G till March 2015 about a product taken out in 2006, though L & G has not raised a time bar to our considering this complaint. I asked Mr J (1) what event(s) prompted the complaint after 8/9 years, (2) his evidence that he could have obtained a better interest rate elsewhere, and (3) whether he has tried to remortgage at any time since the end of the fixed rate period.

My provisional decision was not to uphold the complaint, because whatever Mr J's financial circumstances at the time, the current evidence was that the mortgage he obtained was at a competitive rate and therefore not mis-sold.

In the light of the further information received from both parties, it seems that Mr J did not give MSS all the details of his available funds. He used cash to pay the £30k deposit and £17k stamp duty. He made this complaint because of something he saw in the media which suggested he may have been mis-sold his mortgage. He has not tried to remortgage in the meantime. MSS recommended a mortgage of 30 years at a fixed rate, which it said was the shortest term his current budget would allow to ensure his monthly payments were affordable. There is no mention of any other available funds to him. There is no evidence that Mr J could have obtained a better interest rate elsewhere.

Therefore I still consider that this mortgage was suitable for Mr J and it was not mis-sold.

### **my final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 15 February 2016.

Charles Sweet  
**ombudsman**