

complaint

Mr and Mrs T, through their representative, complain that they were mis-sold two mortgages by an authorised representative of Legal & General Partnership Services Limited ("L&G").

background

Mr and Mrs T took advice on re-mortgaging from L&G in late 2005 / early 2006 and again in 2008. On each occasion they switched lender, took out a fixed rate product (for two and five years respectively) and consolidated some debt. Their representative now complains that the mortgages were mis-sold as not being suitable for Mr and Mrs T.

In particular, Mr and Mrs T's representative complains that the best option in 2006 was for them to have stayed with their existing lender and not to have consolidated debt. In 2008, it again complains that debt consolidation was not suitable, and that the mis-sold mortgage in 2006 impacted on the selection of mortgage in 2008. Mr and Mrs T's representative also identifies inconsistencies in the documentation, which it says cast doubt on the advice given and the accuracy of the factual background underlying it.

L&G says that the advice given, on both occasions, was suitable. The lenders and products selected were the best available, and the debt consolidation was what Mr and Mrs T wanted and allowed them to reduce their monthly outgoings.

Our adjudicator didn't recommend upholding the complaint, and so Mr and Mrs T's representative now wants a final decision to be made on their case.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where there is a dispute about what happened, I have based my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in the light of the evidence.

In respect of the 2006 mortgage, I note that the sourcing list produced by L&G has Mr and Mrs T's existing lender at the top. However, L&G has explained that that product was only available to new customers, and so not to Mr and Mrs T. Their representative does not accept this, and points to another of its clients, who did re-mortgage in 2005 with the same lender. However, I don't consider that this takes the matter any further; the issue is not whether the lender offered re-mortgage products to existing customers. I don't doubt that it did. The issue is whether the specific product which came at the top of this sourcing list at this time was available to existing customers or only to new ones.

L&G has explained that the sourcing list it produced would specifically state if a product was available to existing as well as new customers, and in this case it didn't. I accept this explanation, and so on the balance of probabilities I am satisfied that the existing lender's product which came top of the sourcing list was not in fact available to Mr and Mrs T. It therefore follows that I accept that the entry on the suitability record, which refers to the product not being available because additional borrowing was not allowed, was an error.

While it is unfortunate and regrettable that there was an error on the suitability record, it doesn't of itself render the overall advice given wrong or the recommendation unsuitable.

In this case, I'm satisfied that the recommendation was suitable. This means that Mr and Mrs T were placed on the right mortgage in 2006, and so the advice in 2008 was given on the correct basis. I therefore don't consider the 2008 advice undermined by the 2006 advice, and am satisfied the recommended mortgage in 2008 was also suitable.

In 2006, Mr and Mrs T consolidated two credit card debts, totalling around £6,000. Between then and 2008, they had accumulated a further £22,500 of debt, which was again consolidated. This consisted of a further £6,000 of credit card debt, an £11,000 loan (itself taken out, according to the client review, for debt consolidation) and a £6,000 loan for home improvements.

There is therefore a pattern of debt consolidation – at the 2006 re-mortgage, via the 2007 loan, and again at the 2008 re-mortgage. In 2006, Mr and Mrs T are advised in the record of suitability that consolidation would be more expensive in the long term, but they indicated that they wished to proceed. The initial client review in 2005 says that the credit cards are not to be consolidated, but this has changed by the time of the record of suitability.

In 2008, they were advised in rather stronger terms that if they consolidated then, they may not be able to do so in the future and were advised not to take on further commitments in the future.

Mr and Mrs T's representative says that the advice to consolidate was unsuitable because it increased the overall cost of the debt, particularly in relation to the 2006 credit cards, which were on a 0% interest rate. And that is true, it would and did increase the amount payable over the long term – particularly in respect of the 0% rates. Mr and Mrs T initially did not want to consolidate these cards, but later decided to do so.

Consolidation of debt appears to be a regular financial management strategy on Mr and Mrs T's part. They did it three times in three years (including once outside a re-mortgage without advice from L&G) – quickly running up significant additional debt in between consolidations. I'm therefore satisfied on the balance of probabilities that the impetus to do so came from them, that the downsides of doing so were explained to them, but that they decided that they wished to proceed. And so, insofar as the resulting mortgage met their objectives on both occasions, I can't say it was unsuitable in all the circumstances.

my final decision

For the reasons I have given, my final decision is that I don't uphold this complaint.

Simon Pugh
ombudsman