complaint

Mr H's complaint is that he was badly advised by
Legal & General Partnership Services Limited (L&G). He says that he was mis-sold a mortgage in 2008 as the advice to consolidate debts into an interest-only mortgage was unsuitable. No repayment vehicle was recommended to pay the mortgage.

Mr H is represented in his complaint by a complaint management company.

background

Mr H went to L&G for advice about his mortgage arrangements in 2008. At the time, he had a repayment mortgage on his home. He also had two loans (one secured on his home) and a small amount of credit card debt. In addition, Mr H had a County Court Judgement (CCJ) that he had to pay for another two years and had recently finished paying another. Mr H was also behind on his mortgage payments. It was documented that he wanted to clear his debts and repair his credit file.

Mr H was advised to take out a new mortgage with a new lender. The new mortgage was for more than the existing one so that money was released to pay off his debts. The new mortgage was recommended on an interest-only basis and on a fixed interest rate for three years. This was to keep the costs down for an initial period and to give Mr H breathing space to sort out his finances. The adviser also told Mr H that at the end of the three-year fixed rate that he should change his mortgage back to a repayment basis, so that it would be paid off at the end of the term. Mr H was warned that because the capital would have to be paid off over a shorter period, it might be that a repayment mortgage wasn't affordable and he would have to consider selling his home.

Before the re-mortgage Mr H's mortgage and debts had cost him about £940 per month. When added to the other monthly living costs Mr H said he had, the existing arrangements were just about affordable on his income. However, the mortgage arrears and CCJs would indicate that in reality Mr H's income was insufficient to support his lifestyle.

Following the re-mortgage the cost of Mr H's debts reduced to just over £400 per month. So the re-mortgage freed-up over £500 per month for Mr H to stabilise his finances.

At the end of the three-year fixed rate, Mr H didn't convert his mortgage back to a repayment basis. The mortgage is due to be repaid in 2020 and Mr H doesn't have the funds to repay it.

In 2016, Mr H complained to L&G saying the consolidation of debts into an interest-only mortgage with no repayment vehicle was unsuitable advice. L&G investigated the complaint. Overall it found the advice was suitable. But it accepted that the advice to consolidate the credit card wasn't. This was because the balance was relatively small and could have been paid off quickly from Mr H's income. It offered to compensate him for the interest and additional costs that had been paid by Mr H because this debt had been added to the re-mortgage. Mr H was not satisfied with L&G's conclusion and brought the complaint to this service.

One of our adjudicators considered the complaint. She thought that the complaint should be upheld because of the advice to convert to an interest-only basis and consolidate the debts. This was because before the advice the debts were being paid off, whereas following it, they weren't. L&G disagreed with her view and the redress she proposed, so it asked for review by an ombudsman.

I considered the evidence in this case and issued my provisional decision on 16 May 2017. I explained my reasoning and conclusions.

Initially I confirmed that as L&G has already accepted that the credit card debt shouldn't have been consolidated into the re-mortgage, I wouldn't be considering that issue. I did, however, comment that the redress offered by L&G is what I would award in such circumstances.

I went on to explain that, based on the information Mr H gave the adviser about his income and outgoings, Mr H could afford his existing arrangements, but with little to spare. However, I thought that was clear from other information that this wasn't the case. The mortgage arrears, the then current and recently paid off CCJs indicated that his outgoings were higher than he admitted – he couldn't afford his existing commitments. This was also supported by his choice of credit card provider – it specialises in consumers who have credit problems. So I was satisfied that Mr H needed to change his arrangements in order to sort out his finances.

I went on to consider whether the advice to consolidate the loans and the CCJ into the mortgage was appropriate. One of Mr H's loans was already secured on his home, so amalgamating it into the re-mortgage didn't increase the risk to his home. It did, however, extend the term the loan would be repaid over. The loan had 47 months of payments left on it and the new mortgage was arranged over 12 years; more than doubling the term of the debt. That said, the interest rate on the loan was almost double that paid after the re-mortgage. Again, the re-mortgage more than doubled the repayment term of Mr H's car loan. However, it would have again significantly reduced the interest rate being paid on it.

In relation to the CCJ debt, this was due to be repaid over a relatively short term – two years. It would also not have attracted additional interest. So it could be argued that it was inappropriate to consolidate this debt. However, Mr H wanted to improve his credit file. Whilst paying off the debt wouldn't have removed record of it from Mr H's credit file, it would have been recorded as paid in full much sooner than if he had paid it on a monthly basis. It would also have ceased to be reported on his credit file two years earlier. I didn't think that it was necessarily the best advice to consolidate this debt, but it would have accelerated any improvement to Mr H's credit file repaying it would have, which fitted with his stated priority.

I explained that debt consolidation is not something that should be done without considering the negative consequences - it will often mean that the debt will cost more in the long term. However, Mr H was made aware that the debts could cost more over the term of the new mortgage. Also, given Mr H's situation, where he couldn't afford his commitments in their existing form, I wasn't persuaded that Mr H had many other options to reduce his outgoings.

I then addressed Mr H's representative having suggested that he should have been told to enter into a debt management arrangement rather than consolidate the debts. This is what he did with the debts built-up after the re-mortgage. However, as I have said above, on the face of it, Mr H could just about afford his commitments. Debt management plans are designed to help those who clearly can't afford their commitments and, therefore, need to arrange reduced payments to their creditors. In the circumstances, I doubt that such arrangements would have been an option for Mr H at the time.

I didn't think that consolidating all of Mr H's debts into his mortgage was ideal. However, I wasn't persuaded that Mr H had many other options given he needed to reduce his outgoings in order to be able to pay his commitments within his budget.

I then looked at the matter of L&G recommending the mortgage on an interest-only basis. Mr H's representative had said that it was wrong to do so where there was no repayment vehicle in place. However, I didn't believe this took into account the advice Mr H was given in its entirety. There was no intention for Mr H to maintain the mortgage on an interest-only basis throughout its entire term. He was meant to convert the mortgage back to repayment after three years. In the circumstances, had a repayment vehicle been recommended, it would have been inappropriate because it wouldn't have been needed three years later.

I did, however, consider the suitability of recommending that Mr H take a break from paying capital off his mortgage and other debts. I thought it obvious that this is not an ideal thing to do. However, there will be situations where taking a break from paying capital due to financial difficulties is appropriate. Indeed, it is something that lenders have been known to offer to assist consumers through periods of financial difficulty. Given the arrears and CCJs that Mr H had, I was satisfied that he was probably in some financial difficulties. Providing him with advice that would give him breathing space to sort out those difficulties wasn't unreasonable. I concluded that the difficulty that Mr H is currently in has resulted from him not making the best of that opportunity and converting back to a repayment mortgage when he was advised to.

Overall, I was persuaded that the advice given to Mr H was reasonable, given his circumstances at the time.

Both Mr H's representative and L&G confirmed that they had received my provisional decision and had no further comment to make.

my findings

I have reconsidered all the available evidence and arguments from the outset to decide what's fair and reasonable in the circumstances of this complaint. As no further comment or evidence has been provided by the parties, I see no reason to depart from my earlier conclusions.

my final decision

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr H to accept or reject my decision before 26 June 2017.

Derry Baxter
ombudsman