

complaint

This complaint is about a mortgage arranged for Mr and Mrs H by JFS Financial. Mr and Mrs H are unhappy that they weren't given good advice. They're being represented by a third party I'll refer to as 'R'.

background

Mr and Mrs H took out a repayment mortgage with a lender. R told us they had a number of concerns about this:

- Mr and Mrs H don't dispute that an early repayment charge (ERC) was highlighted to them, but say they didn't truly appreciate the sum of all of the charges together
- they're also not happy that they weren't advised clearly as to how easily these could've been avoided, simply by delaying the process
- Mr and Mrs H went ahead as it was suggested that they had no other option open to them, and whilst they might have only had one possible choice of product or lender, that wasn't the case in relation to their timescales (later on, previous credit problems would have less impact)
- the advice given in respect of the mortgage term wasn't adequate.

JFS didn't agree it had given Mr and Mrs H poor advice. In particular, it said the lender it recommended was the only one who would consider Mr and Mrs H's application. JFS said it had highlighted the redemption penalties they'd incur very clearly to Mr and Mrs H if they decided to proceed with their mortgage application.

Our adjudicator didn't recommend upholding the complaint. She felt overall that Mr and Mrs H hadn't been financially disadvantaged by what had happened, even if there might have been some shortcomings in the way JFS had explained things to them.

R says (I'm summarising here) that Mr and Mrs H agree with our adjudicator's view that the advantages and disadvantages of re-mortgaging weren't adequately explained. And if they'd been given thorough and clear advice at the time Mr and Mrs H would likely not have gone ahead. It's agreed that a re-mortgage at some point would've been beneficial. But Mr and Mrs H still feel JFS ought to have advised them to wait to avoid the ERC in order to save a significant cost. Mr and Mrs H don't accept our adjudicator's view that overall consolidation of a secured loan resulted in a saving which offset the fees. R says these figures ought to be reconsidered.

So the complaint has been referred to me and I've reviewed what's happened.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken carefully into account everything R says in response to the adjudicator's assessment.

Based on the information provided, it seems to me that the mortgage JFS recommended did meet Mr and Mrs H's needs and requirements given their particular circumstances at the time. Here's why I say this.

When Mr and Mrs H were looking into re-arranging their finances, it looks as if their main aims were to reduce their monthly repayments and, at the same time, raise some cash. At the time, Mr and Mrs H were happy that the mortgage JFS recommended over the term they wanted would enable them to restructure all their debts and achieve their objectives. They've since had second thoughts about whether this was a good financial deal for them.

I think, on balance, it's fair to say that the overall costs of the re-mortgage, including the ERC Mr and Mrs H paid, were offset by savings made by restructuring their existing borrowing and the benefit of achieving their goal of having a lump sum to use for their own purposes.

And I'm satisfied that Mr and Mrs H had enough information to be able to make the decision to go ahead with the mortgage they signed up to. I think JFS set out all the information they'd have needed to make an informed decision about whether the ERC they knew they'd have to pay, and the costs of re-mortgaging, made it worthwhile for them to proceed. They had some clear reasons for wanting to re-mortgage. Their borrowing options at the time were limited. I don't think it's reasonable for me to infer that Mr and Mrs H wouldn't have known they could choose not to go ahead with the recommended re-mortgage deal if they hadn't wanted to at the time. And I'm not persuaded that with different information they'd have been willing to wait until the ERC could've been avoided. Given the passage of time, it's possible they've now forgotten exactly what issues they weighed in the balance. But, I think it's likely that Mr and Mrs H felt the ERC was a cost they were willing to pay at the time to achieve their overall financial objectives.

I'm sorry that Mr and Mrs H's situation didn't work out in the way they hoped when they took out this borrowing. But what's happened since isn't a reason for me to uphold their complaint. It was their choice to go ahead with the mortgage JFS recommended. I haven't seen anything to persuade me that JFS mis-sold the mortgage or that it didn't meet their stated requirements at the time.

my final decision

For these reasons, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 5 November 2015.

Susan Webb
ombudsman