Financial Ombudsman Service

complaint

Mr J complains that a mortgage with NRAM plc was mis-sold to him in 2007.

background

In 2007, after receiving advice from a mortgage broker, Mr J took out a mortgage with NRAM. On 11 June 2007 NRAM made an offer for a mortgage at 6.49% with a product fee of £1,995.00. But this was later amended and on 21 June 2007 NRAM offered Mr J a mortgage of £114,000, together with an unsecured loan of £6,000. There was no product fee for this mortgage. The mortgage was fixed for five years on an interest rate of 6.89% and was an overall term of 35 years.

Mr J has now complained that the mortgage was mis-sold. He wants to be put back in the position he was in before he took out the mortgage. In summary, Mr J says:

- the mortgage was unaffordable and the lending was irresponsible;
- he was told the unsecured loan was unenforceable under the Consumer Credit Act 1974 (CCA);
- NRAM told him the unsecured loan had been written off;
- the valuation fee was overstated and should be refunded;
- the product fee was rolled up into the mortgage;
- he's been overcharged interest;
- the amount on the opening statement is incorrect;
- NRAM has wrongly charged him fees of £400.

The adjudicator didn't recommend the complaint should be upheld. But the adjudicator thought that NRAM's customer service in dealing with the complaint could have been better. NRAM had offered Mr J £250 compensation for this, which the adjudicator thought was fair.

Mr J disagreed with the adjudicator's findings and asked for an ombudsman to review the complaint.

my findings

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

Mr J has made very detailed submissions in support of his complaint. I confirm I've read everything he and NRAM have provided. But I'm not required to address each and every point Mr J has made or reply at similar length; instead I'll be concentrating on the main issues in the complaint about whether or not the mortgage was unsuitable for Mr J. No discourtesy is intended by this; it simply reflects the informal nature of the ombudsman service and my role within it.

the unsecured loan – In 2008 the unsecured loan was the subject of court proceedings. A Tomlin order was been made in which Mr J admitted the full amount of the debt claimed by NRAM.

Mr J is now in an Individual Voluntary Arrangement with his creditors, including NRAM in relation to the unsecured loan. So in the circumstances, it's not appropriate for me to comment further on this , except to say that there is no evidence to persuade me that NRAM never told Mr J it'd been written off and was no longer repayable. If Mr J believes the loan has been written off, he will need to raise this with the Administrator of his IVA.

After an error was identified by the regulator, NRAM was required to refund interest on some of its unsecured loans, including Mr J's. I understand there has been an adjustment to the amount of the claim by the IVA Administrator to take account of this. Again, this is a matter for the Administrator to deal with, as the loan is now within his control.

the mortgage – The mortgage was sold through an independent mortgage broker, whose role was to advise Mr J about the suitability of the mortgage. But Mr J's position is that the lending by NRAM was unaffordable and irresponsible.

I've reviewed the documents provided by NRAM, and I'm not persuaded that the mortgage was unaffordable. The application was properly considered by NRAM's underwriters, based on the information provided by Mr J's mortgage adviser. I'm satisfied the loan was affordable and the lending was not irresponsible.

There was no product fee for this mortgage. The valuation fee of £505 was shown in the application. This clarified that this included commission of £345 to NRAM for assessing the valuation report for mortgage purposes. I'm not persuaded this was excessive or hidden, or that Mr J has been overcharged.

I fully understand why Mr J might think the mortgage was unsuitable for him. The fixed rate was for five years. At the time, this was a sensible option. Interest rates had been rising steadily for some years. In 2007 the Bank of England base rate went up in January and May before the mortgage offer was issued, and once again in July 2007, just before Mr J completed his purchase.

I don't think it was irresponsible for NRAM to offer Mr J a five-year fixed rate mortgage. In his circumstances, with only his income, certainty of repayment in what was then a rising market was appropriate. Nobody could have predicted the fall in interest rates that began at the end of 2007, culminating in the rate eventually falling to 0.5% in March 2009, where it has remained since. But I do appreciate that this meant Mr J's repayments didn't fall in line with interest rates, due to him having fixed his repayments for the first five years.

I've seen no evidence to persuade me NRAM has incorrectly charged interest on the mortgage account. When the fixed term came to an end the mortgage reverted to NRAM's Standard Variable Rate (SVR), in accordance with the mortgage conditions.

But I'm satisfied the lending wasn't irresponsible and so I don't uphold this part of the complaint.

Mr J has complained about fees and charges added to his account and about credit card payments taken by NRAM. But as no evidence has been provided about the specific details of these, I'm unable to uphold this part of the complaint. The credit card account is, I understand, subject to the IVA and so I can't consider any claim from Mr J in relation to this.

I understand Mr J feels very strongly that NRAM shouldn't have granted him this mortgage. I'm sorry Mr J got into financial difficulty. But overall I'm not persuaded that the lending was irresponsible. NRAM offered Mr J £250 for delays in responding to his Subject Access Request and in providing answers to his queries. I think this is fair and I don't require NRAM to do anything further.

I know this isn't the outcome Mr J was hoping for. I'm aware from his correspondence that Mr J has little confidence in the Financial Ombudsman Service to resolve this complaint in a way that would be satisfactory to him. I'm sorry if Mr J is disappointed in us. But having considered all the evidence and arguments, I'm unable to uphold this complaint.

my final decision

My decision is that I don't uphold this complaint, in that I'm satisfied the £250 offered by NRAM plc for poor customer service is fair and reasonable. I simply leave it to Mr J to decide if he wants to accept it in full and final settlement of his 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.

Jan O'Leary
ombudsman