

complaint

Miss S complains through her adviser that Legal & General Partnership Services Limited gave her unsuitable advice to remortgage and consolidate her debts.

background

Miss S had a mortgage but was advised by Legal & General to remortgage and consolidate her debts. Our adjudicator recommended that this complaint should be upheld in part as the advice to consolidate was unsuitable. Legal & General disagreed saying in summary that the consolidation of the loan brought about the necessary savings to allow Miss S to afford the new mortgage.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Miss S says she was mis-sold this mortgage on several grounds. Firstly she says that the recommended lender was unsuitable because other lenders appeared to offer cheaper monthly repayments and lower interest rates. However, on this point I agree with our adjudicator that as the recommended mortgage was on a lifetime tracker rate, whereas the alternatives were for a shorter term, it offered savings to Miss S which she would not have enjoyed with an alternative lender. I therefore cannot fairly uphold that part of the complaint.

Secondly Miss S says that she had a reasonable disposable income of some £716 per month and no pressing need to consolidate her unsecured debt-for which she paid £146 per month- into the remortgage. Miss S says that the recommendation to do so was unsuitable as it extends her unsecured loan over the lifetime of the mortgage and secured her unsecured debt.

Originally Legal & General said that *"While I accept that the client's income would have allowed her to continue the loan in addition to her mortgage, it was the client's choice whether to consolidate the loan or not"*. In response to our adjudicator's view, Legal & General says that an examination of Miss S's bank statements between November 2005 and February 2006 shows that there was not in fact £716 per month available. As a result Legal & General says that because her mortgage payments were due to increase by £106 per month, it does not believe that there was enough surplus income to accommodate the increase unless the loan was consolidated.

Legal & General advised Miss S to consolidate her debt into this mortgage. This recommendation was based on an assumption stated in Legal & General's review of Miss S's finances that Miss S had disposable income of £710 per month. On this level of income, it is difficult to see a justification for the debt consolidation. Legal & General alternatively says that Miss S's bank statements do not confirm the assumed level of disposable income. These bank statements give a snapshot of Miss S's spending in the pre Christmas and post Christmas period and may not be reliable as a measure of Miss S's disposable income throughout the year. I prefer to rely on the information originally gathered by Legal & General during its review and on which it relied when making its recommendation. Based on that I am not persuaded that the recommendation to consolidate this debt was appropriate and so I uphold this part of the complaint.

Miss S should be compensated for the financial loss she suffered as a result and I set out the calculation of the redress below. As she paid a fee to Legal and General for this advice, she should in addition receive a refund of the portion of the fee that related to the advice on the consolidation of the debt.

my final decision

My decision is that I uphold this complaint in part and I order Legal & General Partnership Limited to:

- Calculate the amount Miss S has paid to date in capital and interest payments in respect of the consolidated debt
- Calculate how much remains on Miss S's mortgage balance in respect of the consolidated debt
- Calculate how much Miss S would have paid to clear the debt had it not been consolidated
- Add together the first and second figures, deduct the third figure and pay the result as a lump sum.
- Refund that portion of the broker's fee that is attributable to the advice to consolidate the debt together with 8% simple interest per annum if the fee was paid up front or at the mortgage rate if added to the mortgage. If Legal and General considers that it needs to deduct income tax from the interest element of my award it should provide Miss S with the necessary certificate.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss S to accept or reject my decision before 29 June 2015.

Gerard McManus
ombudsman