

## **complaint**

Mr B and Miss G complain that Mortgage Talk Limited ('MTL') – a mortgage intermediary or broker and appointed representative of Legal & General Partnership Services Limited – mis-sold a mortgage to them in 2006. Mr B and Miss G also say that the mortgage was unaffordable from the outset and that their property was over-valued.

The complaint has been conducted by Mr B throughout.

## **background**

The adjudicator did not recommend that the complaint should be upheld. In summary, she was satisfied that the advice provided by MTL to remortgage to the new lender was suitable.

Based on the information provided, she considered that the new mortgage had been affordable in 2006 – and that it was the later change to Mr B and Miss G's financial and personal circumstances that was the cause of their current difficulties.

With regards to whether the property had been over-valued in 2006, the adjudicator explained that the valuation would have been carried out on behalf of the lender, not the broker. So any questions about the valuation would, in the first instance, need to be directed to the lender itself.

Mr B disagreed with the adjudicator's findings saying, in summary:

- The mortgage had never been affordable – his income had been massively over-inflated by the broker
- MTL had not told them to use the surplus money they received from the remortgage to consolidate their existing unsecured debt. So they had been left with paying higher monthly mortgage payments on top of their existing debt commitments.
- The mortgage had been transferred to interest only almost immediately after it had started in 2006 – this in itself was evidence that the initial recommendation had always been unaffordable.
- The property had been over-valued by a considerable amount.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

### *what was MTL required to do?*

MTL was giving Mr B and Miss G mortgage advice. It should have recommended a mortgage that was suitable for them, taking into account their stated needs and circumstances. It was reasonable for Mr B and Miss G to rely on the advice they had been given – they were not financial experts.

### *valuation of the property*

MTL was not responsible for the valuation of Mr B and Miss G's property. The valuation was obtained by the lender when deciding whether to offer the mortgage to Mr B and Miss G, and

deciding whether their property offered adequate security for the loan. If Mr B and Miss G consider that the valuation was incorrect, then in the first place, they would need to speak to the lender.

*affordability and debt consolidation*

It was noted by the adjudicator that there were some discrepancies with the income figures recorded by MTL for Mr B. And I know that Mr B disputes telling MTL that he received an annual bonus of about double his (undisputed) basic salary of some £25,000. But as the adjudicator also explained, the lender actually assessed the mortgage application based on the bank statements and Mr B's wage slips. So the lending was not assessed according to MTL's figures, but upon Mr B's recorded income for the preceding months, and was not deemed to be unaffordable.

Mr B has provided a list of his outgoings at the time to support the reasons why he says the mortgage was always unaffordable. I have noted Mr B's comments on this point, but it seems to me that Mr B and Miss G have struggled to meet the payments mainly because of their decision not to pay down their existing unsecured debt with the money received from the remortgage.

I appreciate that Mr B says they were unaware of the need to do this – but on balance I am satisfied, from the information I have seen, that the matter was discussed. The information captured at the time strongly indicates that at least some of the debts – which amounted to some £46,000 - would be paid off. This would have reduced Mr B and Miss G's ongoing monthly expenditure by a considerable amount.

Mr B has explained that they went on to use the 'additional borrowing' for other purposes and whilst this is unfortunate, I am not persuaded that MTL can be found at fault for this decision. Mr B and Miss G were fully aware of their outstanding debts and of how much the new monthly mortgage payments would be.

I note that Mr B has pointed to the 'immediate' conversion of the mortgage to interest only in support of their contention that the mortgage was unaffordable from the outset – but this did not actually take place until 2008. I do appreciate that Mr B and Miss G are now struggling to make their monthly mortgage payments, and I sympathise with their situation. But I am not persuaded that the mortgage recommended by MTL was unaffordable from the outset.

I find it most likely that the decision not to use the money to pay off some of their debts – combined with a later change to their personal and financial circumstances (coinciding with the change to interest only) – has been the cause of their current difficulties. When I take account of the circumstances overall, on balance I am unable to find that MTL's recommended lender and borrowing was unsuitable for Mr B and Miss G.

**my final decision**

I am sorry to disappoint Mr B and Miss G, but my final decision is that I do not uphold their complaint against Legal & General Partnership Services Limited.

Katherine Wells  
**ombudsman**