complaint

Mr and Mrs S complain that an authorised representative of Legal & General Partnership Services Limited ("LGPS") mis-sold an unsuitable mortgage in 2006.

background

LGPS recommended a new mortgage to Mr and Mrs S in 2006.

Mr and Mrs S had an existing eight year interest only mortgage with an endowment policy in place as a repayment vehicle. When a projection was carried out in 2005, it showed that the endowment policy wouldn't cover the full balance of the mortgage. Mr and Mrs S wanted to make sure that their mortgage was fully repaid.

LGPS recommended Mr and Mrs S convert their interest only mortgage to a repayment mortgage. This extended the term of the mortgage from eight years to sixteen years. They also took on additional borrowing to consolidate debts. The debts consisted of a loan and a smaller store card debt. Mr and Mrs S were paying the sum of £340.00 per month towards the loan which had a further 57 months to run. Mr and Mrs S were paying £50.00 per month for the store card which had approximately 10 months left before it was fully repaid. And they took out a payment protection insurance ("PPI") policy. I understand Mr and Mrs S have been refunded for the PPI policy. So to be clear I will only be deciding on whether or not the mortgage was mis-sold and whether Mr and Mrs S should have consolidated their debts when they re-mortgaged.

LGPS didn't agree that the mortgage had been mis-sold. It told Mr and Mrs S that it thought the mortgage advice was suitable except for the advice to consolidate the smaller store card debt. It made an offer to put Mr and Mrs S back into the position they would have been in if they hadn't consolidated the smaller store card debt.

Our adjudicator thought that this matter should succeed. He said that he thought extending the term so that Mr and Mrs S converted their mortgage to a repayment mortgage was suitable but it was unnecessary to consolidate the loan into the mortgage. The consolidation of the debt meant that the interest being added was significant over a much longer term. The loan was affordable without adding it to the cost of the mortgage.

LGPS didn't agree with this view and asked for the complaint to be passed to an ombudsman.

my findings

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

Having thought carefully, I have decided to uphold this complaint. I will explain why.

I don't think it was unsuitable to convert the mortgage repayments from interest only to a repayment basis.

I have noted that it was important to Mr and Mrs S that their entire mortgage was repaid at the end of the term. I don't think they wanted to take any risks. By converting to a repayment mortgage, this would have allowed Mr and Mrs S peace of mind that they would repay their mortgage without the need to rely on an endowment policy which they were uncertain would cover the full amount of the outstanding mortgage. By converting the mortgage to a repayment mortgage the mortgage term was extended. The mortgage payments would have increased if they would have kept their eight year mortgage term which I don't think would have been affordable. I think it's likely Mr and Mrs S understood this and it was more important for them to be able to repay their mortgage at the end of the term. So I don't uphold this part of the complaint.

However, I don't think the advice to consolidate the loan was suitable. I think Mr and Mrs S could have achieved their objectives without consolidating their debt which would have meant that unsecured debt was now secured on their property and cost more over a much longer term.

LGPS say that if the loan had been kept separately then Mr and Mrs S's disposable income would have reduced to £50.00. This was much less disposable income than they had before. It didn't agree that Mr and Mrs S would have wanted such a drastic reduction in their disposable income. LGPS also say that Mr and Mrs S had confirmed their preference for a flexible mortgage as they wanted to overpay and reduce the balance on the mortgage and interest paid. And they wanted to be able to budget each month.

I don't think there would have been such a drastic reduction in their disposable income. The fact find shows that Mr and Mrs S's disposable income included such things as holidays and hobbies. So I think the budget set out on the income and expenditure form had allowed for flexibility. And as it is now accepted on all sides that the PPI was mis-sold. Had it not been included- as it shouldn't have been- this would also have allowed for more disposable income. LGPS say that this wouldn't have been enough for Mr and Mrs S to maintain their lifestyle. But on balance I don't agree. I think Mr and Mrs S had wanted to re-mortgage to make sure they didn't need to worry about the endowment policy not paying off the mortgage at the end of the term and I think that the mortgage and loans would have been affordable without consolidating them. I think by consolidating the debt on the mortgage payments, these were now secured on their home when previously they hadn't been. The addition of the loan to the mortgage meant that Mr and Mrs S's loan was bigger than it needed to be and attracted additional interest. So I don't think it should have been consolidated. LGPS should compensate Mr and Mrs S.

my final decision

Legal & General Partnership Services Limited should put Mr and Mrs S in the position they would have been in if they hadn't consolidated their debts.

- Calculate the monthly payments including the capital and interest made to service all consolidated debts from mortgage completion to the date of settlement.

- Calculate the amount of the debt still outstanding as part of the mortgage balance as at date of completion.

- Calculate how much it would have cost the consumers to pay back the debt had it not been consolidated - this is the monthly payment times the number of months left.

- Add together the first two figures, deduct the third and pay the result as a lump sum.

- The amount of the broker fees and charges in respect of the consolidated debts should be refunded. As well as 8% simple interest per year if paid up front, or at the mortgage rate if added to the mortgage.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 9 March 2016.

Nicola Woolf
ombudsman