

complaint

Mr and Mrs B through their solicitor B complain that A, an appointed representative of Legal & General Partnership Services Limited ("L&G"), mis-sold an unsuitable mortgage in 2006. They want compensation.

background

In 2006, Mr and Mrs B were advised about a remortgage by A. Later, B said that the mortgage hadn't been suitable to meet their needs and it had been disproportionate to consolidate some of the debts into the new mortgage. It said if insurance hadn't been sold at the same time, Mr and Mrs B's disposable income would've been higher and they would've have needed to carry out debt consolidation.

B complained to L&G. It said the new mortgage was suitable as it was cheaper than the old one. L&G pointed out that paying all the debts with the new mortgage significantly increased the disposable income available to Mr and Mrs B who were at the time were spending more than they earned. It said leaving out some of the debts would've meant the new mortgage wouldn't have been affordable and disagreed that the insurance policy caused debt consolidation to be carried out.

B complained to us. The investigator's view was that L&G wasn't at fault. She said A discussed with Mr and Mrs B their financial position, needs and preferences, and recommended debt consolidation as a result. The investigator thought this was suitable advice in all the circumstances. She also noted A told Mr and Mrs B that they would be including debts with 0% interest, but they chose to go ahead in order to increase their monthly disposable money. The investigator pointed out that Mr and Mrs B signed several times to say that they understood the advice and that the insurance policy sale had already been dealt with years ago.

B disagreed. It said a cheaper mortgage was available at the time. L&G explained that the mortgage recommended gave more cashback and was more flexible in terms of affordability than the cheaper mortgage to which B referred. It thought the other lender wouldn't have lent to Mr and Mrs B given their income. The investigator agreed with L&G. B was of the view that the cheaper mortgage was more suitable and was only excluded due to the debts and insurance policy included by A.

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 don't think the mortgage recommended by A was unsuitable, and would make the point that A was only required to recommend a suitable mortgage. I'm satisfied that the mortgage it recommended was suitable as it met Mr and Mrs B's needs and gave them more cashback than the other mortgage. And I'm satisfied that the lender who did lend to Mr and Mrs B had more flexibility about how much it would lend than the other lender, not least because A told Mr and Mrs B that at the time and the lender who did lend was known for having generous lending policies.

I think the mortgage did meet Mr and Mrs B's needs. They clearly were spending more than they earned and needed to deal with the situation. They had significant debts. A explained in a document signed by Mr and Mrs B that debt consolidation would cost more in interest payments overall, but would also reduce their monthly payments. That's wasn't unfair or unreasonable advice. I accept A's duty required more than simply letting Mr and Mrs B do something which wasn't in their best interests, but A wasn't a debt counsellor. I can't say the advice to consolidate all the loans wasn't suitable, even bearing in mind interest free loans were included. In order to ensure the new mortgage was affordable, I think it was fair and reasonable advice to include all the loans, particularly when the consequences of doing so was clearly explained in writing to Mr and Mrs B.

From the available evidence, I'm not satisfied that A deliberately structured its advice to get Mr and Mrs B to take out the insurance policy. And given their position, I don't think the policy itself caused the need for debt consolidation – Mr and Mrs B were spending more than they earned. I also think Mr and Mrs B understood the advice given to them and choose to go ahead.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 15 December 2017.

Claire Sharp
ombudsman