complaint

Mr J complains that London & Country Mortgages Limited ("L&C") mis-sold a mortgage to him.

background

Mr J contacted L&C with a view to reducing his monthly outgoings while repaying the debts he had been left with following his divorce. L&C recommended he repay his existing mortgage which had about 22 years to run and consolidate his other debts into a new mortgage with a term of 30 years. The interest rate would be fixed for the first five years.

Mr J complains that the mortgage was mis-sold because L&C did not tell him that the term extended into his retirement, when he will be unable to afford to continue repayments. He says that discovering this came as a shock to him.

The adjudicator did not recommend that the complaint be upheld. Having listened to recordings of Mr J's conversations with L&C, he said:

> *"I am satisfied Mr J was, in 2011, looking to take control of his finances. At that time his monthly financial commitments to his mortgage and other loans/credit cards were said to be a considerable percentage of his monthly income. It therefore made good financial sense to take advantage of an opportunity to reduce those outgoings.*
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> *Although, if the recommended mortgage ran its full term, Mr J would pay more interest and be at increased risk of having his property taken into possession, if he did not maintain the required payments, the restructuring of his finances would reduce his monthly outgoings by around £600. At the same time, all his other debts, which would have had much higher rates of interest, would be cleared. He would also have a period of five years during which he would be protected from any rise in interest rates….*
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> *L&C clearly explained all aspects of the proposed arrangement and recommended Mr J should stay with a term of 22 years, if he possibly could, although affordability may have meant he would not be able to borrow all the funds he needed to resolve his financial situation….*
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> *All the key aspects of the proposed mortgage, the consequences of the extended term and the discipline required of Mr J to manage the required overpayments were very clearly explained and emphasised."*

Mr J did not agree and requested review by an ombudsman. He said that 22-year terms were available from other lenders, and should have been recommended. He has issue with money and debt and should not have been recommended a mortgage which depended on his making monthly savings to make overpayments to reduce the term.

my findings

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

In his complaint to L&C Mr J said:

> *"I feel that I have been mis-advised, as no one mentioned to me, as far as I can see, … other than relying on me to read documents that my mortgage will run for 10 years after my selected retirement age of 65 …. I cannot recall, at all, any conversation we had about my mortgage running into retirement."*

In its final response to Mr J, L&C said:

> *"While the product met your needs and circumstances the only concern would be with the term of the mortgage as [the lender's] affordability calculators suggested that based on a single child they would be able to lend the full amount required over 22 years. Based on 2 children to meet the borrowing requirements you would need to take the mortgage out over a longer term of 30 years which would take you into retirement.*
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> *It was hoped that given the 50% custody situation [the lender] would treat your two children as one for affordability purposes however in the event that they would not we advised you that you would need to take the mortgage over the longer term.*
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> *[The adviser] also went on to explain that the mortgage product in question allowed for an annual 10% overpayment to be made without penalty and therefore if a 30 year term was needed you could save £100 per month in a separate account and pay this off each year. The net effect of this over the fixed rate product would be to reduce the mortgage by 7 years and 9 months i.e. back to within the 22 year term you ideally wanted.*
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> *[The adviser] explained that it was important to carefully consider the impact of the longer mortgage term and also that it would be vitally important to make the regular annual overpayments in order to bring the term back down. If you could commit to making the monthly savings in a separate account, and commit to making the annual overpayment then the 30 term would be suitable. However, if you could not commit to making the monthly savings then you should stick with a term of 22 years and reduce the borrowing accordingly.*
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> *The call ended with [the adviser] suggesting that you consider this carefully before deciding how you wanted to proceed and once you had decided he would make his recommendation.*
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> *Having had time to consider this you called and left … a voicemail message … confirming that you wished to proceed on a 30 year term.".*

In his complaint form sent to this service Mr J repeated that he was not advised that the mortgage would run until the age of 75. However in a covering letter he said:

> *"I was … advised to save £100 per month in an ISA in order to counteract the 30 year term."*

In my view this is inconsistent with Mr J's complaint. He was 44 years of age at the time, so if he was advised, as he admits in the covering letter, that there was a 30 year term then he must have known that this would extend into his retirement.

For this reason I prefer L&C's version of events, which is that it explained to Mr J that from the reduction in his monthly payments he should save £100 per month in a separate account and pay this off the mortgage each year. This would reduce the term to within what he ideally wanted. It appears however that Mr J did not do this.

I have also listened to the call recordings, which do not support Mr J's version of events. In their conversations the adviser variously tells Mr J: (a) that the mortgage term would be 30 years; (b) that it would be 30 years instead of 22 years; (c) that Mr J would be 74 at the end; and (d) that Mr J would need to save £100 per month and pay a lump sum once a year, because 30 years would take him up to age 74. If he took a 30-year term and saved up £100 per month for annual overpayments then the loan would be repaid three months into the 22nd year.

Mr J says that 22-year terms were available from other lenders. That is true and the L&C adviser told him so, and added that he would suggest Mr J left the term at 22 years if he could. But the affordability of this, with partial custody of two children, would have reduced the amount Mr J could borrow and he would not have been able to pay off all the debts and would not have achieved the reduction in his monthly commitments which he was looking for. That is why Mr J opted for 30 years. The adviser said he could do this if he was happy he would be able to overpay. Mr J replied: "I don't think that will be an issue at all".

For these reasons I am not persuaded that the mortgage was mis-sold. It achieved what Mr J wanted but he did not do what was required. If he has an issue with money and debt then I am not persuaded that L&C ought to have known this. Certainly it knew about the debts which were consolidated, but this was not inherently unusual, particularly after a divorce. The £100 per month was more than covered by the reduction in monthly outgoings following the debt consolidation.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr J to accept or reject my decision before 23 March 2015.

Edward Callaghan
ombudsman