PENNINGTONS MANCHES

GPDF
General Practitioners Defence Fund

INFORMATION NOTE FOR GP PRACTICES: MIS-SELLING OF FIXED RATE LOANS & INTEREST RATE SWAPS

Commissioned by GPDF

1. WHAT ARE FIXED RATE LOANS AND INTEREST RATE SWAPS?

A fixed rate loan or mortgage, is a loan where the interest rate is fixed for the term of the loan and doesn't fluctuate.

Interest rate swaps are complex financial instruments which were extensively marketed to GPs to protect against interest rate risk and were sold as a way to hedge against that risk.

Fixed rate loans or mortgages are sometimes packaged with an interest rate swap. The customer is often unaware of this. If the customer wishes to refinance the loan, for example if interest rates drop, and the loan is packaged with a swap, they can be faced with huge financial penalties.

Lenders benefit from selling fixed rate loans packaged with interest rate swaps because the existence of the swap allows them to enter complex trades behind the scenes e.g. to sell the fixed rate element of the loans on to the derivatives market, and buy back the loan at a lower floating rate of interest. Bank staff received substantial bonuses to sell swaps to customers.

2. WHY IS THIS RELEVANT TO GP PRACTICES?

The Financial Times reported in September this year that the Financial Conduct Authority (FCA) was launching an investigation into mis-selling of financial products to GP practices. This investigation relates to fixed rate loans or mortgages packaged with interest rate swaps that were sold by lenders to many GP practices e.g. to finance practice premises.

Many of these fixed rate mortgages with an interest rate swap embedded will have been provided on a long-term basis. This means that where interest rates drop (as we have seen in the last decade), the practice could be paying interest rates far higher than the market rate for many years, and cannot refinance due to the high penalties associated with exiting the interest rate swap. Often this (together with the manipulation of LIBOR where relevant) was not brought to the attention of the GP customer at the relevant time.

In addition, GPs can be faced with difficulties retiring from practice as new partners do not want to take on repayment of a high interest loan with huge exit costs.

3. HAVE I BEEN MIS-SOLD A FIXED RATE LOAN/INTEREST RATE SWAP?

Your fixed rate loan may have been mis-sold to you if it was packaged with an interest rate swap and:

- you were not provided simple numerical illustrations of early breakage costs;
- you were not aware of the existence of the interest rate swap;
- you were aware of the existence of the swap but were led to believe there was no other option;
- you were given unsuitable advice;
- the risks were not explained to you;
- the penalties associated with refinancing were not explained to you; and/or
- you were not given the information you needed and ended up with a product that isn't right for you.

4. WHAT SHOULD I DO NEXT?

Penningtons Manches solicitors' specialist swaps advice team have agreed to provide an initial telephone consultation without obligation to instruct them, to discuss whether you may have grounds to investigate a claim against your lender. Please contact John Canning at doo@gpdf.org.uk to arrange a call and to receive a summary of the documents required for the call with the legal team.

Ordinarily, a legal claim must be brought within 6 years of the sale of the fixed rate loan/interest rate swap. While there are exceptions to this general rule, if you feel you fall under any of the above categories, we recommend that you urgently seek independent legal advice.