

The complaint

Miss T complains that Topaz Finance Limited trading as Siberite Mortgages (Siberite) agreed to a payment holiday on her joint Buy to Let (BTL) mortgage without her consent.

What happened

Miss T had a BTL mortgage with Siberite in the names of herself and her ex-partner (who I will call A). The mortgaged property was rented out to tenants. Repayments were £219.04 a month. In April 2020, A asked for a three-month payment holiday under the measures introduced by lenders as a result of COVID-19. Siberite agreed to this and no payments were made between June 2020 and August 2020. On 4 August 2020, a credit of £800 was paid into the mortgage account.

Miss T complained. She hadn't consented to the payment holiday and didn't need it or want it. There was enough rent coming in to pay the mortgage. She said Siberite shouldn't have agreed to it without her approval – and had therefore acted illegally. Her credit file had been marked - and she'd been refused credit as a result. She'd asked Siberite for the cost of the payment holiday, but they'd not let her know.

Siberite said they'd acted fairly. They'd agreed to the request from A for a payment holiday. That was in the best interests of both joint borrowers and they'd acted in line with their regulatory obligations. Siberite said that Miss T's credit record wouldn't be negatively affected. If she wanted to make payments during the payment holiday, she could do – to limit the impact of interest charged. They said there weren't any fees charged for the payment holiday. On a separate unrelated complaint, Siberite offered to pay compensation of £100.

Miss T brought her complaint to us and our investigator looked at what had happened. He said Siberite had acted reasonably. They'd agreed the payment holiday under the COVID guidelines set down by the Financial Conduct Authority (FCA), and didn't need to obtain the agreement of both Miss T and A. He'd not seen that Miss T's credit file had been affected. And he'd not seen that any interest or fees had been added by Siberite – other than the deferred interest at the normal rate for the mortgage.

Miss T didn't agree and asked that an ombudsman look at her complaint.

I reached a provisional decision where I said:

Financial Conduct Authority (FCA) in March 2020 – in response to the possible impact of COVID-19 on borrowers. Under the guidelines, lenders had to give a PH to borrowers on request. Initially, PH's were to be for three months from March 2020, but this was extended for a further three months in June 2020. PHs meant that for the three-month period, payments were suspended – but the normal contractual rate of interest would continue to be applied. No fees were to be charged for PHs. Businesses had to give customers clear information about the impact of a PH.

Miss T says that Siberite acted illegally in agreeing to a PH – because the mortgage was in the joint names of herself and A. She says it shouldn't have been granted without her agreeing to it, and she hadn't – the PH wasn't needed. And as a result, there would now be more interest to pay on the mortgage; and her credit file had been marked. She's said that she's been declined credit because of this. Also, she hadn't been told of the cost of the PH by Siberite.

I've considered what Miss T has said. The FCA guidelines for PHs don't say that they need to be asked for by both parties to a loan or mortgage. So – in this case, I don't think that Siberite needed to get the joint agreement of both Miss T and A for the PH. And – the PH was for the benefit of both Miss T and A – and so it was the right thing for Siberite to do. I say this because the PH gave them a three-month breathing space – without having to make the monthly repayments for that period. Miss T has said that there was enough rental income from the property to make the normal repayments. But also – the tenants could've been impacted by COVID-19 and not been able to pay their rent – so in that sense, I think Siberite acted in the best interests of both Miss T and A in agreeing to the PH. During the conversation between Miss T and Siberite in April 2020, they informed her that she could keep making the payments during the payment holiday if she was able to, in order to reduce the impact of the interest accruing. So, if Miss T was worried about the ongoing costs of the payment holiday being agreed – she had the opportunity to minimise that by making the payments.

Miss T says that Siberite didn't tell her what the cost of the PH was. I can see that she sent a message to Siberite in July 2020 asking, "*Please provide the full amount of interest you will be adding to my loan for giving a mortgage holiday...*". Here, I think Miss T may have thought there were extra fees and interest to pay – and also wondered if the cost of the mortgage over the long term would cost more than if the monthly payments were made. I haven't seen a reply to her request. Siberite wrote to Miss T on 28 August 2020 – and said there would be no fees to pay. But – that's all they said. They didn't set out the overall terms and costs of the PH for Miss T and A – and they should have under the FCA guidelines.

I've considered Miss T's point about the longer-term effect of missing three payments. It's true – that this would mean that the term of the mortgage would also be extended by about the same period, and therefore there would be slightly more interest to pay over its remaining term. Siberite didn't set this out to Miss T or A – which under the FCA guidelines, they should have. I noted that Miss T paid £800 to the mortgage on 4 August 2020 – which made up for the three payments missed under the PH, so the additional interest cost of the PH was reduced by that in any case.

Miss T has said that her credit file has been affected and she's been declined for credit because of that. Siberite told her that they hadn't marked her credit file – and confirmed that to us. We asked her for her credit file which she gave to us. This shows that there weren't any missed payments to Siberite showing. So – it's clear that Miss T's credit file wasn't affected. Lenders consider many things when taking decisions on whether to agree to credit or not. I can't say why Miss T has been declined for credit – but from what I've seen, it's not because Siberite marked her credit file.

And so – my provisional decision is that Siberite were correct in agreeing to the PH when A asked for it, and it's also clear that Miss T's credit file wasn't affected. But - Siberite should've set out more clearly the costs and impact of the PH – which they didn't. This has clearly caused some stress and inconvenience for Miss T – she asked for it several times, and Siberite didn't provide it. And, she's been worried about the cost of the PH. And because of that, I can see that it's caused Miss T some frustration and concern. And so, for

this – I think an award of £150 should be paid. I noted that Siberite offered Miss T compensation a different complaint – that's separate and distinct from what I am recommending here.

Responses to the provisional decision:

Siberite agreed with the provisional decision, but Miss T didn't. She said:

1. The PH wasn't needed and Siberite acted illegally in putting it in place.
2. She asked Siberite for the costs of the PH, but they didn't provide this.
3. Siberite breached FCA guidelines
4. She was exposed to a higher debt and interest costs.
5. Siberite said the PH was 'free'.
6. She said the compensation of £100 paid was for a separate incident – whereas it was for this complaint.

I now need to make a final decision.

What I've decided – and why

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

Following Miss T's response, I reviewed Siberite's call notes and listened to five calls which took place on 27 April 2020.

On Miss T's first four points – I consider these are covered in the provisional decision.

On her point (5), Siberite didn't say that the PH was 'free' in the calls I listened to – or in the call notes which cover all of Miss T's calls to Siberite in April 2020.

On her point (6) – I reviewed this again, and in Siberite's notes the compensation of £100 was paid in May 2020 – when they agreed they should have accepted a certified copy of her divorce document instead of asking her for another copy. They also paid £6.70 for the cost of postage. So that was a separate issue as I'd said.

And so – having considered Miss T's points, I won't be departing from my provisional decision and for the reasons I set out in it.

My final decision

I uphold this complaint. And Topaz Finance Limited trading as Siberite Mortgages must:

- Pay compensation of £150 to Miss T for distress and inconvenience. Miss T must advise Siberite of the details of which account she wishes to have this paid to.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 11 February 2022.

Martin Lord
Ombudsman