DRN-3344793

The complaint

Miss J and Mr W complain that Target Servicing Limited delayed in processing a deed of postponement in respect of their help to buy loan. This meant there was a delay in processing a re-mortgage application.

What happened

Miss J and Mr W bought their property in 2018. They took out a mortgage, and also took a help to buy loan to part-fund their deposit.

Help to buy loans are government-funded shared equity loans. The lender is a government agency, and the scheme is administered by Target.

In 2020, as they came to the end of their initial two year fixed rate, Miss J and Mr W decided to move their mortgage to another lender.

Because the help to buy loan is secured over their property by way of a second charge, their new mortgage lender needed Target to agree to a deed of postponement – so that when the old lender removed its charge, the new lender could take first charge ahead of the help to buy loan.

Target charged Miss J and Mr W a £115 fee for the application. Unfortunately there were delays in completing it, and although the application was first made in March 2020, it didn't go through until September 2020.

Miss J and Mr W complained. Target accepted that there had been delays which went beyond its acceptable service levels. So this complaint is mainly about what Target now needs to do to put matters right.

Our investigator said it should pay Miss J and Mr W three months' interest at the difference between their old lender's SVR and their new lender's fixed rate, and pay £150 compensation for their distress and inconvenience. Target didn't agree with that – it said that because Miss J and Mr W had taken a payment deferral, it can't be said they made a loss on payments they didn't make.

My provisional decision

I issued a provisional decision setting out my thinking on the case. I said:

Miss J and Mr W applied to their new lender, and received a mortgage offer on 11 March 2020. They then applied to Target. Their old mortgage fixed rate ended, and they reverted to their lender's standard variable rate (SVR) on 1 April 2020.

Unfortunately, this was around the time the coronavirus pandemic hit, and the country entered the first period of lockdown. Miss J continued to work, but Mr W was furloughed by his employer.

Miss J and Mr W struggled to make the higher mortgage payments on their reduced income, and so they took a covid payment deferral from June 2020.

The deed of postponement was finally completed and sent to Miss J and Mr W's solicitors in August 2020, and Miss J and Mr W took their new mortgage with their new lender on 16 September 2020. Target has accepted that it was at fault, because it delayed in getting the lender's approval on the deed and in sending it on to the solicitors. When Miss J and Mr W complained, it upheld their complaint – but did not offer any compensation for either their financial or non-financial losses.

I'm satisfied based on the evidence I've seen that there was delay in this case. I've taken into account the circumstances of the time, and the impact of the pandemic on services – and their customers – throughout the country. But I've also noted that Target hasn't suggested it was facing any particular difficulties as a result of these unprecedented circumstances. Rather, it seems to have been a simple administrative error.

Target's normal timescale for returning a deed of postponement is four to six weeks. It seems Miss J and Mr W's new lender was not willing to accept Target's standard form deed of postponement, but required Target to use the lender's own form. Miss J and Mr W's solicitors sent this to Target on 19 May 2020.

It's therefore reasonable to expect that, in accordance with its usual timescales, Target should have sent the deed back to the solicitors at the end of June. But it didn't in fact send it until 11 August 2020. This is a delay of six weeks.

I'm therefore satisfied that it's reasonable to hold Target responsible for a six week delay. But I don't think it's fair to hold Target responsible for the entire period Miss J and Mr W spent on the SVR, between 1 April and 16 September.

I say that because they would always have spent some time on the SVR, even if Target had processed the deed within normal timescales.

The mortgage offer was issued on 11 March, but the correct deed wasn't sent to Target by Miss J and Mr W's solicitors until 19 May. Target is not responsible for this period – I'm not sure whether there was delay by the solicitors, or whether Miss J and Mr W simply left it too late to apply for their mortgage before their rate ended on 1 April. But I can't hold Target responsible for any delay – whatever the cause – before it received the form.

And although Target sent the deed to the solicitors on 11 August, the mortgage didn't complete until 16 September. Again, Target is not responsible for this period.

All I can fairly hold Target responsible for is the additional six weeks, outside its usual timescales, it took to process the deed. The rest of the time Miss J and Mr W spent on SVR – before and after Target was involved, and for the time it should have taken Target to process the deed – is not something I can fairly hold Target responsible for.

I'm therefore satisfied that the financial loss Miss J and Mr W have suffered because of Target's delay is six additional weeks on their lender's SVR.

Target says I should not award any redress for that time. It says that's because by the time of the delay, Miss J and Mr W had taken a payment deferral from their old lender. It wouldn't be fair, Target says, to compensate them for payments they didn't actually make.

But I don't agree about that. Miss J and Mr W did make those payments. The effect of a payment deferral was not to write off the payments for the period of the deferral; rather, they were deferred to be collected later.

In this case, the monthly payments fell due, Miss J and Mr W did not make them because of the deferral, and their lender added them to the loan balance. They formed part of the balance charged when the mortgage was redeemed on 16 September 2020.

Therefore it's not right to say that because Miss J and Mr W didn't make any monthly payments at this time they have suffered no loss. They still incurred those payments, and they paid them when the mortgage was redeemed in September. But for Target's delay, they would have had six more weeks of their mortgage being charged at their new lender's lower interest rate – and six fewer weeks of the old lender's SVR. In my view, it's fair for Target to pay them the difference between the two.

Miss J and Mr W's new interest rate was 1.57%. Their old lender's SVR was 3.59%. I would like Miss J and Mr W, when they respond to my provisional decision, to confirm the balance of their mortgage as at the date of redemption on 16 September 2020. In the interests of simplicity, I intend to direct Target to pay them six weeks of daily interest on that balance, at an annual rate of 2.02% - the difference between the two interest rates.

That is the amount of Miss J and Mr W's loss – the amount by which their balance was too high on the date they switched from their old to their new mortgage because of the extra interest they'd incurred.

Since their new mortgage started at a higher balance than it ought to have done, Miss J and Mr W have also paid too much interest on that mortgage balance since then. If they choose to use the redress I'm directing to reduce their mortgage balance, they will no longer need to do so. So I will also direct Target to pay interest at 1.57% compounded on the excess balance, running from 16 September 2020 to two weeks after it makes payment. The additional two weeks is to give Miss J and Mr W time to apply the redress to their mortgage balance if they wish to do so. If they do, there will be no more losses. And if they don't, Target will no longer be responsible for the extra interest they pay going forwards.

I'm also satisfied that Target's delays also caused Miss J and Mr W upset and worry at an already difficult time. And that it didn't help them when they tried to find out what was causing the delay. I'm satisfied £150 is fair compensation.

Finally, I agree with our investigator that it wouldn't be fair to expect Target to refund the £115 application fee – since this was the fee for the service Miss J and Mr W wanted, and the service they eventually – after delays – got.

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.

I've set out above the findings of my provisional decision. Neither party had any further arguments to make, no new evidence to present. I therefore see no reason to change my mind.

My final decision

For the reasons I've given, my final decision is that I uphold this complaint and direct Target Servicing Limited to:

- Calculate six weeks' daily interest on Miss J and Mr W's mortgage balance as at 16 September 2020 at an annual rate of 2.02%;

- Pay them that sum, adding compound annual interest of 1.57% running from 16 September 2020 to two weeks after date of payment; and

- Pay Miss J and Mr W £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J and Mr W to accept or reject my decision before 11 April 2022.

Simon Pugh
Ombudsman