

The complaint

Mr P complains that Target Servicing Limited wouldn't allow him to redeem his help to buy shared equity loan.

What happened

Mr P bought his property with the aid of a help to buy loan. Help to buy loans are a government scheme to support home ownership, whereby a borrower borrows a percentage of the property purchase price in addition to their main mortgage. A help to buy loan is secured by way of a second charge and is redeemed by paying back the same percentage – rather than the same amount – as initially borrowed. Redemption therefore requires an updated valuation of the property to determine the amount due. Mr P borrowed 40% of the purchase price of his property.

Help to buy loans are lent by Homes England, a government agency. Neither the loan nor the lender are regulated. But the lender has appointed Target to manage the loans on its behalf. Target is a regulated entity, and in managing the loans is carrying out the regulated activities of debt administration and debt collection. As such, Target is responsible for answering this complaint.

Mr P decided to redeem his loan and applied to Target to do so. Target told him he would need an up to date valuation of the property so Mr P instructed a valuer, who reported in March 2021.

In April 2021, Target asked Mr P for an EWS1 form for his property. An EWS1 form is a report on the state of the external walls – commonly used where the building is potentially affected by combustible cladding and similar issues. Mr P complained about the delay in giving him a redemption figure, but also sent the EWS1 to Target in early May 2021.

Target told Mr P that his valuation request was “under review” and that it couldn't tell him how long that would take or when he might be able to redeem.

Following our investigator's involvement, Target has agreed to issue a redemption statement allowing Mr P to redeem his loan based on the March 2021 valuation. And it paid him £500 compensation for the delay.

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.

As a regulated entity, in administering the loan on behalf of the lender Target is carrying out the regulated activities of debt administration and debt collection.

In carrying out the regulated activities, Target is performing the lender's duties, and exercising the lender's rights, under the terms of the credit agreement, as well as collecting payments the lender is entitled to. In my view this means that Target must do what the

lender is required to do, and only take steps the lender is entitled to take, while acting on the lender's behalf. And as a regulated firm it has wider obligations to act fairly.

Although the lender is Homes England, it has appointed Target to act on its behalf as – using the description in the loan agreement – its “nominated agent”. Mr P was told to deal with Target and Target was presented as being responsible for the management and administration of the loan agreement.

I'm satisfied that these are matters I can take into account in deciding what's fair and reasonable in all the circumstances. In my view, as the appointed administrator and as the regulated entity carrying out regulated activities in its own right, Target is the appropriate firm to respond to this complaint. As a regulated entity carrying out a regulated activity, it has an obligation to act fairly and reasonably in performing the lender's duties.

Under the loan terms and conditions, Mr P was entitled to redeem the loan at any time, either by selling the property or by repaying in some other way (such as from savings, or by taking further borrowing on the main mortgage). The amount required to redeem the loan is the same proportion of the property's value as originally borrowed – 40% in this case – as determined by an independent valuation, which is final and binding.

According to the terms and conditions, a redemption request should be made to Target as the nominated agent. A valuation is then arranged by the appointment of a qualified surveyor by agreement between the parties. That valuation is binding in setting the redemption figure, and the loan should be repaid within three months (extendable to four on application) of the valuation.

In this case, Mr P followed the appropriate process for redeeming this loan, by notifying Target and then – at Target's request – obtaining an independent valuation of the property. He then sent the valuation to Target. Target did not specify a particular valuer to be used, or ask Mr P to seek agreement to his choice of valuer. It merely told Mr P to ensure he used a qualified valuer to provide the valuation. I'm satisfied that this meant Target agreed to Mr P's choice of valuer and therefore that the valuer was properly instructed and, according to the terms and conditions, their valuation is final.

The valuation said that the property's building was affected by cladding. The valuer took that into account in determining the valuation. The valuer set a value for the property and under the loan terms and conditions that valuation was final and entitled Mr P to redeem his loan. There was no entitlement to “review” and delay the valuation, and so acting fairly and reasonably to have performed the lender's obligations, Target ought to have allowed Mr P to redeem his loan. And it's responsible for the losses that flow from the failure to do so.

I'm satisfied from the evidence I've seen that Mr P had the funds available to redeem his loan through a combination of his own funds and gifts from family. Had Target accepted the valuation and issued a redemption statement in 2021, I'm satisfied Mr P would have redeemed his loan at that time.

In my view, it wasn't fair and reasonable in all the circumstances that Target didn't do so. Acting on the lender's behalf, and acting as a regulated entity with the obligations that brings, Target ought to have allowed Mr P to redeem his loan as he was contractually entitled to do so.

Putting things right

After many months of telling Mr P his redemption request was “under review”, and after several months of failing to provide our investigator with updates and information he

requested, Target has very recently confirmed that it will allow Mr P to redeem his loan based on the March 2021 valuation.

I am pleased to hear that it has now agreed to allow Mr P's redemption to proceed. But for the avoidance of doubt, I make it clear that in my view it is fair and reasonable in all the circumstances that Mr P should be allowed to redeem his loan, paying no more than he would have paid had the March 2021 valuation been accepted at the time.

And I will direct Target to make sure that happens – if the lender agrees to that, it should issue ensure redemption progresses accordingly. But if the lender does not agree to that, Target should compensate Mr P for the difference between the redemption figure now and the redemption figure as it would have been in March 2021. I understand that a redemption statement has now been issued based on the March 2021 valuation, so Mr P will be able to redeem at that amount. But I include these directions for completeness as redemption has not yet concluded.

Finally, our investigator said that Target should compensate Mr P for the frustration, upset and inconvenience caused by the delay in redemption and the need for him to repeatedly - without success – contact Target to try and obtain meaningful updates. He said that he considered £500 compensation to be fair in all the circumstances. And I agree with that. But since our investigator set out his view, there has been further delay and frustration. It has taken several months for Target to make its position clear. This has delayed our ability to bring finality to the complaint and worsened the upset and frustration Mr P has been caused. In the circumstances, I intend to increase the investigator's compensation award to £750.

My final decision

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

- Restart the redemption process so that Mr P can redeem his loan – as I understand it has now done.
- If – as I understand Target has now confirmed – a further valuation is not required, allow Mr P to redeem, setting the redemption figure based on the March 2021 valuation.
- If however a further valuation is required, Target should arrange and pay for the valuation to take place within 60 days of acceptance of this decision. If any new valuation results in an increased redemption figure compared with the redemption figure resulting from the March 2021 valuation, Target should pay the difference between the two redemption figures to Mr P at the same time as it issues a redemption statement, so that Mr P can redeem his loan paying no more than he would have paid in 2021.
- Pay Mr P a further £250 compensation, in addition to the £500 it has now agreed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 April 2023.

Simon Pugh
Ombudsman