

The complaint

Mrs W complains about the way that Target Servicing Limited dealt with a query she had about letting her property out. She feels it has caused her some financial loss and is also unhappy with how long Target took to give her permission to do this.

What happened

Mrs W purchased her property in September 2016 with the assistance of the help to buy scheme.

The help to buy scheme is a government scheme in place to support home ownership. In addition to the usual mortgage from a regular lender, a borrower takes an equity shared loan funded by the government to reduce the amount of cash deposit that would be otherwise required. Mrs W's property is in England, and she took the loan out with Homes England, which was formally known as Homes and Communities Agency. They are an executive agency and non-departmental public body sponsored by the Department for Levelling Up, Housing and Communities. Homes England lends a percentage of the property purchase price to the borrower to enable them to buy a home.

Help to buy shared equity loans are interest free for the first five years. From year six onwards, interest is payable. Help to buy shared equity loans are secured by way of a second charge over the property, ranking behind the main mortgage. This means that the loan must be repaid at the end of its term which is generally 25 years. But if the property is sold before then, it must be repaid on the sale of the property. A borrower can also elect to repay the loan at any time, even if the property is not being sold.

Mrs W submitted a query to Target in March 2021. She had been notified that the block her flat was in had failed an EWS1 check and was rated as a B2. This means that it was considered to have potentially risky combustible cladding or other fire safety issues needing remedial work. So she knew she might have issues selling the property until any work had been carried out. Because of this rating, she said she found out that surveyors would not value the property.

Mrs W contacted Target to seek advice about whether she could let her property out. Mrs W was aware that she would start to pay interest on the loan from September 2021 so wanted to get things sorted out before then. Mrs W said she didn't hear anything from Target for around six months. Mrs W said she wanted to get things sorted out and she was hoping to let the property out, move to another bigger property as she was due to have a baby in September 2021. As she couldn't sell this property yet, she wanted to let it out in the meantime.

Mrs W said that had Target responded to her sooner than they did, she would have been able to let the property out and would have received an income from this. Mrs W told us that she eventually let the property out on 14 November 2021 for 12 months with an agreed rental income of £1,400.

Target have accepted that there were some delays in getting back to Mrs W but said that during a call in April 2021, Mrs W was told what she needed to do and it wasn't until August that Mrs W made her written request to let the property out.

Mrs W brought the complaint to our service where it was looked at by one of our investigators. Our investigator upheld the complaint and thought that Target had delayed the application. So it should refund Mrs W for the rent that she lost out on – for six months. The investigator also thought that Target should pay Mrs W £250 for the stress and inconvenience caused.

Ms W accepted that. But Target said there was no evidence that they had caused any delays so said they wouldn't refund the lost rent – though they agreed to pay £250 compensation. They also provided further information for the investigator to consider.

After reviewing the information, our investigator changed her mind. She thought that Target should only pay for one month's rent of £1400 plus 8% interest for the delay of around six weeks that was caused on top of the compensation that had already been paid.

Target still didn't agree they caused a six-week delay. They said during a call on 26 March 2021, Mrs W was correctly advised that she needed to write to Homes England to request letting her property out. And that during a follow up call on 19 April 2021, Mrs W was informed again regarding the information that Homes England would require. Target said it wasn't until 30 August 2021, that the written request was made by Mrs W to let her property out.

As Target disagreed, they asked for the complaint to be reviewed by an ombudsman, so it has been passed to me to decide.

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.

Mrs W wanted to let her property out once she realised that she may have some trouble selling it. It's part of the terms and conditions of the loan that the borrower must live in the property and not let it out. So if Mrs W wanted to let her property out, she would need permission to do so first. Target have told us that they were not responsible for any delays with regards to this process.

Mrs W contacted Target by email on 5 March 2021 to make some enquires about letting her property out. Target didn't respond to Mrs W and they have accepted that they didn't do so.

I've listened to the call from March 2021 where Mrs W calls Target to enquire about different options available to her. On this call she explains that her property is affected by cladding and that she has an EWS1 form. She explains to the adviser that she has been told surveyors won't value the property because of the rating on the EWS1. The adviser told Mrs W that she should send in the EWS1 form as well as confirmation that a surveyor won't come out to value the property to Target. He then said he would send these to Homes England but explained it could be a while until she heard back from them.

On 26 March, Mrs W called Target again to chase them regarding her query. The adviser let Mrs W know that there hadn't been any update. Mrs W explicitly asked the adviser on this call if the query she had submitted was the only way she could sublet the property and the adviser explained that Homes England needed to approve it. He told Mrs W that she should put it all in a letter with regards to what she wanted to do as it wasn't clear that she wanted to sublet the property. Mrs W said that it was one of her options originally when she first emailed on 5 March, but she would write in to make it clear that is what she wanted as it would give her more options.

I've then listened to a call from April 2021 between Mrs W and an adviser at Target where Mrs W was calling because she hadn't heard anything. The adviser asked Mrs W to write in with more details regarding her intention to sublet the property as he said it would speed it along. He said that the details they had were not specific to Mrs W wanting to sublet the property. Mrs W said she would send in an explicit email with her intentions.

The adviser also let Mrs W know that she would need written confirmation from her mortgage lender that they were happy for her to sublet her property and forward this to Target.

Having listened to these calls, it's clear that Target did explain to Mrs W on two occasions that she would need to write in to them letting them know that she now wanted to sublet her property as the information they had from Mrs W originally, wasn't clear. And Mrs W did confirm that it was an option she was considering so I can understand why Target would now need to know that this is specifically what Mrs W wanted to do. Target also needed confirmation that her main mortgage lender had already agreed to letting.

I haven't seen anything that confirms that Mrs W sent anything to Target after the first telephone call from March 2021 which would have made it clear to Target that she wanted to let her property out. However, the calls from March and April do make it clear that this is what Mrs W wanted to do. And the email that Mrs W sent Target on 5 March 2021 shows that Mrs W was thinking about subletting her property and wanted to know if this would be approved. Target however didn't let Mrs W know until the call in April 2021 that she would also need to get permission from her mortgage lender to let the property out.

Having considered everything, I think that Target could have made the process clearer to Mrs W in letting her know that she needed to contact her lender for approval to sublet the property from the first telephone conversation in March 2021. While it seems as though Mrs W may not have made it clear that she wanted to specifically sublet her property, it was one of the options that she wanted to explore and I think that Target could've explained this process to Mrs W much earlier than they did. Mrs W had originally sent her email to Target on 5 March 2021 explaining she may want to let her property out and wanted to know if this was possible. Target didn't respond to this email and if they did respond and make it clear the steps that Mrs W needed to take for all of the options she asked about, she could have got things moving much sooner. But it wasn't until 19 April 2021 that Target gave her a complete answer about what she needed to do, which I feel delayed matters.

So I disagree with Target that they didn't cause any delays. Had they informed Mrs W of the correct process by responding to her initial email, then Mrs W could've started the process sooner for letting her property out and she could've contacted her lender earlier than she did. I therefore think there has been a delay for around five to six weeks that was unnecessary. Mrs W managed to get permission from her lender in September 2021 and she said they moved out six weeks later – on 14 November 2021.

Mrs W explained to Target that she was expecting a baby in September 2021 and that they needed to find a bigger property as the one they were living in wasn't big enough – especially as Mrs W's husband would be working from home. And they couldn't sell to move to a bigger property until the cladding works were completed. So there was a valid reason why this needed to be looked at sooner than it was. And while I appreciate Mrs W didn't send in her specific request to let her property out until August 2021, she had contacted her lender by then and was waiting for their approval.

To put things simply, Mrs W had a right to expect a response to her initial query setting out exactly what she had to do – and this didn't happen.

If things had been explained to Mrs W sooner, it's likely that she would have been able to let her property out a month or so before she did in November 2021. So I think that Target should compensate her for one month's loss of rental income on top of the compensation of £250 that has already been paid. But I don't think it needs to pay more than this, since Target is not responsible for the time taken to get agreement from the mortgage lender once it made clear to Mrs W what she would need to do.

My final decision

For the reasons given above, I uphold this complaint and direct Target Servicing Limited to:

- Pay Mrs W £1400 which is one month's rental income plus 8% simple annual interest, running from October 2021 to date of payment, in addition to the distress and inconvenience payment of £250 it has already paid.

If Target Servicing Limited deducts any tax from any interest it pays to Mrs W as above, they should provide Mrs W with a tax deduction certificate, so she can reclaim the tax from the tax authorities if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 14 December 2022.

Maria Drury
Ombudsman