

The complaint

Mr S and Ms L were undertaking a transfer of equity to remove Ms L from their joint mortgage and Help to Buy (“HTB”) loan as they’d separated. They complained to Target Servicing Limited about delays in the process.

Whilst Ms L is a party to this complaint because her name was originally on the HTB agreement, we’ve only been dealing with Mr S as any losses were incurred by him, rather than by them jointly. Any reference to Mr S in this decision should be taken to mean him and Ms L jointly where applicable.

The HTB scheme

The HTB scheme was a government scheme in place to support home ownership. In addition to the usual mortgage from a regular lender, a borrower took a shared equity loan funded by the government to reduce the amount of cash deposit that would be otherwise required.

HTB shared equity loans are secured by way of a second charge over the property, ranking behind the main mortgage.

Mr S and Ms L’s property was in England, and they took the shared equity loan out with Homes England, which was formally known as the Homes and Communities Agency.

Homes England isn’t regulated by the Financial Conduct Authority (FCA) but it appointed Target to administer the loan on its behalf. Target is regulated by the FCA.

The rules which set out the complaints our service can consider are found in the Dispute Resolution (DISP) section in the FCA’s handbook. DISP 2.3 says that our service can consider a complaint if it relates to an act or omission by a firm carrying on a regulated activity.

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 sets out the list of regulated activities referred to in DISP. Among the regulated activities listed is debt administration and debt collection.

Having considered the activities that Target was carrying out in relation to Mr S and Ms L’s agreement, I’m satisfied that the event complained about is an activity that forms part of administering the loan or collecting payments, and therefore is a matter we can consider against Target.

What I’ve decided – and why

I issued a provisional decision in February 2023, the findings of which said:

“This complaint only deals with the period since 21 August 2020 and at that time Target was awaiting information from Mr S’ solicitor, and matters couldn’t be progressed until that was received. Target received the last of the information it needed from Mr S’ solicitor on

13 November 2020, so that is the starting point from which I can consider whether Target caused any delays. I can't consider either the period before 21 August, or the period whilst there was information outstanding from Mr S' solicitor (which takes us to 13 November).

This wasn't a standard transfer of borrower application for Target, as it had been agreed that Mr S would also be borrowing extra funds from his new mortgage lender. The agreement of the extra funds means an extra stage was needed in the process.

Normally – for cases where there is no additional borrowing - on 13 November Target would have sent the deeds to Homes England for sealing, which is what the call handler – in error – told Mr S' solicitor had happened. Instead on 13 November Target sent the Additional Borrowing Request ("ABR") paperwork to Homes England as that stage needed to be completed first, and it was only once the ABR was formally approved by Homes England that the deeds could then be sent for sealing.

That means the four to six weeks timescale that had been quoted was inaccurate, as that was just the timescale for the deeds part of the process. It didn't include the extra ABR approval stage.

Target sent the ABR to Homes England on 13 November and didn't receive the approval back until 8 January 2021 – that's eight weeks (including the Christmas period). Target has said there is no set service standard for that process, but that eight weeks is longer than it would expect.

Upon receipt of the ABR approval Target sent the deeds to Homes England to be sealed, and they were received back on 30 January. That was a period of three weeks, against the four to six weeks that is normally allowed for that process.

Whilst I've considered Mr S' argument that Target and Homes England should have planned for Christmas so it shouldn't have caused any additional time to be taken, I don't agree. They have a set number of staff and a certain amount of work. Any period where the business is closed is, by default, going to mean that all applications take a little longer as there is still the same amount of work and the same amount of people to do it before and after the closure period. It is unfortunate that Mr S and Ms L's application fell over the Christmas period, but I can't hold Target liable for that as it only received the last of the information it needed from Mr S' solicitor on 13 November.

That said, I don't think it is fair to factor in a two week "allowed" delay for the Christmas period as Target has said, as that is an extended period and more than you'd expect. Having considered everything I think allowing one week of delay is more appropriate.

The ABR and the sealing of deeds took around eleven weeks in total. Having considered everything I feel a total of nine weeks in total for those two processes is more appropriate – that is one week for the Christmas period, which then would have left eight weeks for the ABR approval and sealing of the deeds.

This means the completed paperwork should have been sent to Mr S' solicitor on 15 January rather than 31 January – that is, 16 days sooner.

Mr S' solicitor was told that it would be four to six weeks as the call handler didn't realise the ABR process would need to be completed first. This is what we call a misrepresentation; that is, Target gave incorrect information to Mr S (via his solicitor) about the timescales. When we're looking at complaints about misrepresentations we consider the appropriate remedy is to place the consumer in the position they would be in if the incorrect information hadn't been given. We don't put them in the position they would be in

if the misinformation had been correct (that is, it would only take four to six weeks from 13 November).

Mr S could never have been in the position where the paperwork would have been completed in that timescale. For that reason, there are no grounds for me to order Target to do anything further in respect of this issue.

As I've explained, I can't hold Target liable here for any delays before 13 November 2020 as the period until 21 August 2020 doesn't form part of this complaint, and then Target was waiting for Mr S' solicitor to provide all the outstanding information. The process then took around eleven weeks from 13 November, whereas I feel it should have been completed 16 days sooner than it was.

Our investigator recommended Target pay £300 compensation to Mr S for the distress and inconvenience caused, which Target has accepted. Having considered everything I agree that is a fair and reasonable award for the delay in question and the inconvenience Mr S was put through due to that.

I'm provisionally minded to uphold this complaint in part, and order Target Servicing Limited to pay Mr S:

- *£300 compensation for the distress and inconvenience caused.*
- *The difference (if it shows Mr S incurred a loss) between what Mr S paid for the 16 days delay, and what he would have paid had things completed 16 days earlier. If Mr S had completed 16 days earlier, then he would have had a lower interest rate for that time, but he also would have had a higher mortgage balance (because he was borrowing extra funds). Both those factors need to be taken into account in the calculation as those represent Mr S' financial loss (or gain) due to that 16-day period. Target should compare;*
 - *the interest Mr S paid for his existing mortgage (that is the lower borrowing amount being charged on that lender's standard variable rate) to*
 - *the interest he would have paid to the new lender based on the September 2020 mortgage offer (that is, including the additional borrowing and at the new interest rate).*
 - *The calculation should be just the interest (not any capital repayment amount) for a 16-day period.*
 - *I understand some of the additional borrowing was used to repay some debts. If Mr S can provide documentary evidence of the debts repaid, and the interest that was being charged on those debts, then that can be factored into the above calculation as part of his losses as he was charged interest on those debts for an additional 16 days."*

Target didn't respond to my provisional decision. Mr S responded and said whilst he was disappointed with my findings, he was prepared to accept the outcome.

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

Having done so, and having considered the full file afresh, I see no reason to depart from my provisional findings.

Putting things right

I order Target Servicing Limited to pay Mr S:

- £300 compensation for the distress and inconvenience caused.
- The difference (if it shows Mr S incurred a loss) between what Mr S paid for the 16 days delay, and what he would have paid had things completed 16 days earlier. If Mr S had completed 16 days earlier, then he would have had a lower interest rate for that time, but he also would have had a higher mortgage balance (because he was borrowing extra funds). Both those factors need to be taken into account in the calculation as those represent Mr S' financial loss (or gain) due to that 16-day period. Target should compare;
 - the interest Mr S paid for his existing mortgage (that is the lower borrowing amount being charged on that lender's standard variable rate) to
 - the interest he would have paid to the new lender based on the September 2020 mortgage offer (that is, including the additional borrowing and at the new interest rate).
 - The calculation should be just the interest (not any capital repayment amount) for a 16-day period.
 - I understand some of the additional borrowing was used to repay some debts. If Mr S can provide documentary evidence of the debts repaid, and the interest that was being charged on those debts, then that can be factored into the above calculation as part of his losses as he was charged interest on those debts for an additional 16 days."

If this decision is accepted, I would ask Mr S to provide the information required to complete the above calculation to our investigator as soon as possible. If the documentary evidence about the debts repaid isn't provided then this won't be factored into the calculation.

My final decision

I uphold this complaint in part and order Target Servicing Limited to pay compensation as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Ms L to accept or reject my decision before 10 April 2023.

Julia Meadows

Ombudsman