DRN-4256732

The complaint

Mr and Mrs B are unhappy with the delays caused by Target Servicing Limited when they wanted to redeem their help to buy loan.

What happened

Mr and Mrs B bought a flat in March 2017 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 a shared equity loan funded by the government to reduce the amount of cash deposit that would be otherwise required. Mr and Mrs B's property is in England, and they 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.

What the borrower must pay back is calculated by reference to the value of the property at the time they want to sell it or otherwise repay the shared equity loan. So depending on how property prices have changed in the meantime, the borrower may have to pay back more or less than the amount they originally borrowed.

Mr and Mrs B wanted to redeem their help to buy loan and they provided Target with a completed solicitors form and a valuation report which was dated 23 April 2022 which provided a nil valuation. An EWS1 form was also provided which confirmed the building rating as B2 – which means highly combustible materials were present. There was also a declaration form signed by the valuer dated 29 April 2022. Target said the surveyor should have provided a market value of what a purchaser was willing to pay for the property having regard to the existence of any external cladding and the remediation work that had to be completed. Target acknowledge they didn't tell Mr and Mrs B at the time that the valuation would have been rejected because it had a nil value.

On 11 May 2022 Mr B contacted Target as he had received an email from Target, and he was told that Target needed a declaration form which predated the valuation report and market commentary to explain why the property value had decreased. But Target still failed to tell Mr B that the valuation would not be accepted.

Target received the information they required along with a signed declaration dated January 2022 and they sent the supporting documents to Homes England on 8 June 2022 but instead of sending the January 2022 declaration, they sent the April 2022 one.

On the same day, Target received a response from Homes England asking why the declaration form had the same date as the valuation report and they wanted to know who would be responsible for the remedial work on the property. But Mr and Mrs B were not told about this until 21 June 2022.

On 21 July 2022, Mr and Mrs B provided a response to the information that was required including an email from the management company confirming the costs of the remediation work and who would be responsible for the costs. Mr and Mrs B also provided a response to why the property had a nil value and said the surveyor had been unable to provide a market value while the remediation works were still outstanding.

Target sent this to Homes England on 27 July 2022 but didn't send the attachments – only the body of the email so they acknowledge they caused further delays to the process. Mr and Mrs B should have been informed that the valuation with a nil value would not be accepted as it didn't meet the requirements stated in the declaration form.

Mr and Mrs B were aware that the valuation that was carried out in April 2022 was only valid for three months, so they were very unhappy with how long the process was taking. And they had also secured a mortgage offer as their current rate on their mortgage was due to end at the end of April and this included some additional funds in order to repay the help to buy loan – along with some savings that they had. The mortgage offer confirmed they would have an interest rate of 2.19% and was only valid until the end of September 2022.

Mr and Mrs B said they have been paying the standard variable rate since April 2022 and as Target delayed this process, their mortgage offer expired. So they obtained a new mortgage offer in October 2022 but for a higher interest rate – 4.41%. They said if it hadn't of been for Target's delays, they would be paying much less on their mortgage.

Mr and Mrs B provided Target with a second valuation on 12 October 2022 as the first one had expired which gave a market value of £330,000 and a new declaration form. However, Target did not send this to Homes England until 5 November 2022. The valuation report was approved on 9 November 2022 and Mr and Mrs B were provided with a redemption quote on the same day. Mr and Mrs B have now redeemed their help to buy loan.

Target acknowledged the delays and offered £500 to Mr and Mrs B along with £887.50 for interest payments that had been charged to the loan – but Mr and Mrs B were unhappy with this as they still said they had suffered financial loss as they were paying more for their mortgage than they should have been.

So Mr and Mrs B brought their complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. Our investigator thought that Target had done enough to put things right. She said she was satisfied that Target wouldn't have been able to accept the valuation from April 2022. She also said the valuation from October 2022 was only different because Mr B had sent all the correspondence from the surveyor that was required, and a second valuation would always have been needed. She said that even if Target had told Mr and Mrs B in April 2022 that the valuation wasn't accepted, she didn't think that Mr and Mrs B would have been able to get a valid valuation from the surveyor due to the additional information which was required.

Mr and Mrs B disagreed with this. They said that had they of been told sooner that the valuation wasn't accepted, they would have been able to arrange for another one and they would have been able to complete on their mortgage in time – before their mortgage offer expired.

As Mr and Mrs B were unhappy with what the investigator said, they asked for the complaint to be reviewed by an ombudsman, so it has been passed to me to decide.

My provisional decision

I issued a provisional decision on 11 July 2023. I said:

> I've considered 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.

Under 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 their behalf as – using the description in the loan agreement it's "nominated agent". Mr and Mrs B were told to deal with Target at all times 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 when 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 their own right, Target is the appropriate firm to respond to this complaint. As a regulated entity carrying out a regulated activity, they have an obligation to act fairly and reasonably in performing the lender's duties.

Under the loan terms and conditions, Mr and Mrs B are entitled to redeem the loan at any time, either by selling the property or repaying in some other way (such as from savings, or by taking further borrowing on the main mortgage).

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 settling the redemption figure, and the loan should be repaid within three months (extendable to four on application) of the valuation.

In this case, Mr and Mrs B provided Target with documentation needed, including a valuation in April 2022. The valuation was carried out on 23 April 2022 and shows a nil valuation for the property. It also states that the market value after completion and repairs would be £330,000.

This valuation was carried out before the signed declaration was completed on 29 April 2022. This declaration explains what Mr and Mrs B were to provide and it's at this point that Target would have then approved the process for a valuation to be carried out. Target said they wouldn't have accepted this valuation because it had a nil value and also because the declaration had pre-dated the valuation form. But the issue here is that Target didn't tell Mr and Mrs B.

There isn't any dispute here that Target caused delays and they have acknowledged that in their final response letter to Mr and Mrs B. They have mentioned on multiple occasions that they should have told Mr and Mrs B that the valuation from April 2022 wasn't accepted.

Mr and Mrs B had some savings they were going to use in addition to borrowing some additional money on their main mortgage, to pay off the help to buy loan. I have seen evidence of the savings they held and the mortgage offer which confirms they would have obtained a rate of 2.19% for five years. The mortgage offer was dated 12 May 2022 and I can see that due to the delays that were being caused by Target, Mr and Mrs B contacted their lender to extend the mortgage offer until the end of September 2022 – which we have also seen evidence of.

Target have offered Mr and Mrs B £500 for the delays they caused and also agreed to reimburse them £887.50 worth of daily interest. While it's good to see that Target have tried to rectify things for Mr and Mrs B – I don't think they have gone far enough. I'll explain why.

The main issue here for Mr and Mrs B is that they have lost out on a lower mortgage interest rate compared to what they ended up with which is purely because of the delays caused by Target.

I think on balance, had Mr and Mrs B of been told by Target that the first valuation from April 2022 wasn't accepted, they would have been able to arrange for a second valuation to be carried out. Its possible that a second valuation may have also shown a nil value and the only way it would have changed was by Mr and Mrs B supplying the information surrounding the remedial work and the reason for the reduction in the value of the property to Target - which is what they wanted.

From the contact notes provided, Target had received the correct declaration form and an email from the management company confirming that the remediation works would be done with no cost to the leaseholders – they received this on 21 July 2022.

There is also a letter from the surveyor dated 19 May 2022 which confirms why there has been a drop in value which is something else that Target required.

I accept that without this information, if Mr and Mrs B would have arranged a second valuation the property value may have still come out at zero – but this information was readily available so I think on balance if Target told Mr and Mrs B much sooner than they did that a second valuation was needed, they could have arranged for this to happen which would have meant that they could have completed on their new mortgage before it expired at the end of September 2022.

Even if Target told Mr and Mrs B on 21 July 2022 that they needed a second valuation at this point, I think it was enough time for Mr and Mrs B to arrange a second valuation and send this back to Target who could have then arranged a redemption statement in time.

I say this because if you look at the timeline of events that did happen, it would have been enough time.

Mr and Mrs B sent Target the second valuation on 12 October 2022 which gave a market value of £330,000 along with a new declaration form. Target admitted not sending this to Homes England until 5 November 2022. The report was approved, and a redemption quote was issued on 9 November 2022 allowing Mr and Mrs B to redeem the help to buy loan. That process took four weeks. So I think it's reasonable to suggest that even if Target needed all the documentation in relation to the remedial work and value of the property (which they had on 21 July 2022), that giving four weeks from that date would have meant that Mr and Mrs B had plenty of time to redeem the help to buy loan before their mortgage offer expired. So I think Mr and Mrs B have suffered financial loss because of this.

In Targets final response letter, they did acknowledge that Mr and Mrs B incurred additional charges on their first mortgage because they moved onto the standard variable rate. And they asked Mr and Mrs B to provide evidence of this so that they could ensure that any further redress was taken into consideration. Mr and Mrs B have told us that they sent further evidence to Target in March 2023 but haven't heard anything back from them. They said they have chased them regarding this but still haven't heard anything.

I think Mr and Mrs B would always have gone onto the standard variable rate for a few months as they said their current deal ended at the end of April 2022 and I don't think it's fair to say that they would have redeemed the help to buy loan straight away or completed on their new mortgage. So as the process normally takes around three months, I think they possibly would have been on the standard variable rate until at least August 2022. And at this point, I think that Mr and Mrs B would have taken advantage of the 2.19% five-year fixed rate as they already had the mortgage offer in place.

So I think that in addition to the redress already offered by Target, I am minded to say that Target should pay the difference in the mortgage interest rates that Mr and Mrs B are paying. As I've explained, I think it's more likely than not that this process would have completed by the end of August at the very latest which would mean that Mr and Mrs B would have secured their rate of 2.19% instead of the 4.41% that they are now paying.

So Target should cover this difference for a period of five years as the mortgage would have been on a five-year fixed period. I think this is a fair and reasonable resolution for Mr and Mrs B in the circumstances of this complaint.

Developments

Mr and Mrs B responded and clarified a few points in relation to the provisional decision. They said that Target didn't tell them to arrange a second valuation and they took the initiative to do so themselves. Mr and Mrs B also said that the surveying company had sent Target the declaration form that was needed in January 2022, before the valuation was done – in line with Target's guidelines – but they didn't acknowledge it. Mr and Mrs B explained they were just pointing this out and they were happy with the provisional decision and accepted what I had said.

Target responded and asked us to provide evidence of the increased costs to Mr and Mrs B, in order for them to make the calculation on the level of redress required.

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.

Mr and Mrs B have accepted the provisional decision and Target have asked us for the evidence of the increased costs that Mr and Mrs B have incurred.

We have sent them the mortgage offers which show how much Mr and Mrs B would have paid on their mortgage, against what they ended up paying if it hadn't of been for the delays. As Target have said they require this information it appears that they have accepted the provisional decision as they haven't made any further comments. So based on this, I see no reason to depart from what I said in my provisional decision.

My final decision

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

- Calculate the difference in interest rates between Mr and Mrs B's mortgage of 4.41% against the mortgage that Mr and Mrs B would have obtained at 2.19% from August 2022 - and pay the difference in the interest that will be charged for five years

- Target should pay the redress already offered of £887.50 for the interest added to Mr and Mrs B's loan (which they already offered) adding simple annual interest of 8%* and they should pay this from the date each payment was made to the date it is refunded
- Target should pay Mr and Mrs B £500 for the trouble and upset they have caused – if they haven't done so already

*Target may deduct income tax from the 8% interest elements of my award, as required by HMRC. But they should tell Mr and Mrs B what it has deducted so they can reclaim the tax from HMRC if they are entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 17 August 2023.

Maria Drury
Ombudsman