

The complaint

Mr and Mrs M complain that Topaz Finance Limited, trading as Heliodor Mortgages, has refused to extend their mortgage term or change part of the mortgage onto a repayment basis, and that it has charged them an excessive and unfair rate of interest.

What happened

Mr and Mrs M took out their mortgage in 2006, with Northern Rock. It's a 'Together' mortgage – they borrowed a secured loan of £218,000 plus fees, and a linked unsecured loan of £11,500. The secured loan was to be paid on an interest-only basis and the unsecured loan was on a capital and interest repayment basis, both over a term of 15 years.

The interest rate was initially fixed at 6.49% until 1 July 2009. After that, it was a variable rate which was guaranteed to be below Northern Rock's standard variable rate (SVR), as long as Mr and Mrs M kept their mortgage and loan with Northern Rock or its successors. Northern Rock's SVR was 6.84% at the time of the mortgage offer in August 2006.

In 2008, Northern Rock collapsed and was later nationalised. Mr and Mrs M's mortgage and loan were transferred to NRAM. In 2019, they were sold to Heliodor. Heliodor, as the current loan owner, has responded to this complaint.

Mr and Mrs M have faced some extremely difficult personal circumstances over the years, and they fell into arrears on the mortgage and loan. They say they agreed an extension of three years to the mortgage term with Northern Rock, and that both Northern Rock and NRAM gave them assurances that the term was flexible and could be extended.

In November 2020, Mr and Mrs M complained to Heliodor that the mortgage term was wrong and didn't reflect the extension they had agreed with Northern Rock. They also complained about the figures on Heliodor's correspondence, because they thought there were mistakes.

On 16 November 2020, Heliodor sent Mr and Mrs M its final response to their complaint. It explained the arrears balances on its correspondence and said it had no record of predecessor lenders having agreed a term extension. It said there was a record of a request for a term extension in 2011, but the request was declined, and the term remained set to end in October 2021. It also said that Mr and Mrs M could refer their complaint to the Financial Ombudsman Service, but they needed to do so within six months.

On 12 July 2021, Mr and Mrs M complained to Heliodor again about its refusal to stand by assurances they say they had been given by its predecessors about the availability of a term extension. They also complained that they should have been given the option of paying some of the mortgage on a repayment basis, and that the interest rate they had been charged was excessive compared to rates charged by other lenders.

On 6 September 2021, Heliodor sent Mr and Mrs M its final response to their complaint. It referred them back to its November 2020 final response about the term extension. It said it had tried to work with Mr and Mrs M to resolve the arrears, it had set the interest rate on the mortgage and loan fairly, and it couldn't offer Mr and Mrs M a concessionary rate. It also said

that Mr and Mrs M could refer their complaint to the Financial Ombudsman Service, but they needed to do so within six months.

In September 2021, Mr and Mrs M asked Heliodor for a term extension. It gave them some quotes but then told them it wouldn't agree to an extension. Mr and Mrs M complained about its handling of their request.

The mortgage and loan term ended in October 2021.

On 16 November 2021, Heliodor sent Mr and Mrs M its final response to their complaint. It apologised for having raised their expectations about the possibility of a term extension, but said extending the term wasn't viable in their circumstances. It also said that Mr and Mrs M could refer their complaint to the Financial Ombudsman Service, but they needed to do so within six months.

In February 2022, Mr and Mrs M referred a complaint to the Financial Ombudsman Service about the agreement for a term extension which they say they had with Heliodor's predecessors and which Heliodor refused to honour. They said Heliodor's treatment of them had caused them significant stress and anxiety.

In July 2022, Mr and Mrs M asked the Financial Ombudsman Service to look into Heliodor's handling of the term extension request they made in 2021. They also asked us to investigate recent increases to the interest rate on the mortgage and loan following Bank of England base rate rises.

Our Investigator thought that Mr and Mrs M had referred some parts of their complaint too late, and so the Financial Ombudsman Service couldn't look into those parts. He concluded that we couldn't consider their complaints about the extended term they said they had agreed with Heliodor's predecessors or Heliodor's handling of their term extension request in 2021. He said we could consider their complaint about the interest rate they had been charged since 12 July 2015 (six years before they complained about the rate) and none of the mortgage balance having been moved onto a repayment basis.

The Investigator then looked into the parts of the complaint he had found he could consider, and didn't recommend they be upheld.

Mr and Mrs M didn't accept that conclusion and asked for an Ombudsman's review. They still wanted the term extension they said they were promised, on an interest-only basis, and that was still the main point of their complaint.

The complaint was passed to me to decide. I issued a decision to confirm the scope of my jurisdiction. I concluded that Mr and Mrs M had brought some elements of their complaint too late and that meant I can't consider them.

I said I can only consider Mr and Mrs M's complaint about the payment basis of the mortgage and the fairness of the interest rate they have been charged since 12 July 2015 (but bearing in mind earlier rate variations as part of all the circumstances of the complaint).

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.

Having done so, I'm not upholding this complaint.

First of all, Mr and Mrs M have more broadly complained about the way Heliodor has treated them and the stress and anxiety this has caused. I've considered this in the context of this overall complaint, and I recognise that Mr and Mrs M are in a very difficult position: their mortgage term has ended with a significant balance still outstanding. They want more time to pay back the debt.

Heliodor is entitled to ask Mr and Mrs M about their plans for repayment in these circumstances and ultimately to seek possession of their property if no agreement is reached. I encourage Mr and Mrs M to discuss their plans for repayment with Heliodor and provide supporting information where possible, in order to see if they can come to an arrangement for repayment. They have said they have a lump sum they could use to reduce the mortgage balance, but have been waiting for the outcome of this complaint before putting it towards the mortgage. This may be a good starting point for their discussions with Heliodor.

In making my decision, I've kept in mind what Heliodor has told the Financial Ombudsman Service about its responsibility for complaints: it has said that it isn't responsible for complaints about events that occurred before Mr and Mrs M's mortgage and loan were transferred to it in 2019. Its predecessor, NRAM, also contests responsibility.

This dispute is ongoing between the firms and is yet to be resolved. But in the interests of resolving complaints at the earliest opportunity for consumers like Mr and Mrs M, we will proceed where possible to provide an answer on complaints brought against the current legal title holder – in this case Heliodor. I can therefore decide Mr and Mrs M's complaint.

I'll now set out my findings about the parts of this complaint I can decide.

The payment basis of the mortgage

Mr and Mrs M's mortgage has been on an interest-only basis since they took it out in 2006. Mr and Mrs M have said they discussed changing all or part of it onto a repayment basis with Heliodor, but it wouldn't agree to that.

Mr and Mrs M have been in arrears on their mortgage for a number of years. In December 2022, Heliodor said the arrears balance stood at just under £15,000. Against this background, I think it unlikely that changing the payment basis of the mortgage would have helped Mr and Mrs M. They couldn't afford to make payments of interest-only, and the monthly cost of a repayment mortgage would have been higher – even had it been calculated over an extended term.

In the circumstances, making the mortgage more expensive by changing it to a capital and interest repayment basis would have worsened Mr and Mrs M's situation rather than improved it, because the arrears would have grown. It was also open to Mr and Mrs M to make overpayments if they wanted to do so once they had repaid the arrears, without formally making any changes to the payment basis of the mortgage.

For these reasons, I don't consider that Mr and Mrs M have been disadvantaged because the payment basis of the mortgage remained interest-only, or that Heliodor should reasonably have agreed to change it to repayment.

The interest rate

Mr and Mrs M complain that the interest rate on their mortgage and loan has been unfairly high compared to rates available from other lenders, and that it didn't fall when Bank of England base rate fell but it increased when base rate went up.

As I said in my previous decision, I can consider the fairness of the rate Mr and Mrs M were charged after 12 July 2015. I will, however, take account of earlier variations in the rate because they form part of all the circumstances of this complaint leading up to the interest applied after 12 July 2015.

I don't think NRAM or Heliodor did anything wrong in not offering Mr and Mrs M a new interest rate after 12 July 2015. There was nothing to say they had to do so, either in the mortgage offer and conditions, or in law or the rules of mortgage regulation. Neither lender offered new rates to any other customers either, so in not offering Mr and Mrs M a rate the lenders weren't treating them less favourably than other customers. No early repayment charges applied after the fixed rate ended in 2009, so there was no charge stopping Mr and Mrs M from applying for better rates with other lenders.

I've carefully considered the fairness of the interest rate Mr and Mrs M were charged, as well as relevant law and regulations. The rate changed to Northern Rock's SVR less a discount when Mr and Mrs M's initial fixed rate ended in July 2009, as set out in the mortgage offer. The offer and mortgage conditions also said that the SVR could go up as well as down. They didn't say that the SVR would track Bank of England base rate or any other reference rate.

The mortgage conditions set out the circumstances in which the lender could change the SVR; those circumstances included increases in mortgage interest rates in the wider residential mortgage market and various commercial reasons. While I think the variation clause is broad, I'm not persuaded that the rate on Mr and Mrs M's mortgage and loan has been varied unfairly.

NRAM was responsible for setting the rate on Mr and Mrs M's mortgage and loan between 12 July 2015 and 11 November 2019 (when the transfer was made to Heliodor). Heliodor has been responsible for setting the rate since. Both lenders have provided information to the Financial Ombudsman Service about their reasons for setting and varying their SVRs, including during the period before July 2015, which I've carefully considered. This includes information about their funding costs and the impact of the 2007-2008 financial crisis, and the information Heliodor makes publicly available on its website about its consideration of other rates in the wider residential mortgage market in setting its rates.

I also note that after 2010 up to Mr and Mrs M's complaint, the only changes to the SVR were made in line with Bank of England base rate changes; the margin between the SVR and base rate remained the same. So the rate Mr and Mrs M have been charged has in fact risen and fallen, including following Bank of England base rate changes – and I can't reasonably accept their argument that their mortgage and loan rate has only increased when base rate has increased.

In November 2019, for example, the applicable SVR was 5.04%, and in April 2020 Heliodor reduced that to 4.39%. This reflected Bank of England base rate reductions of 0.65% at that time; Heliodor reduced the SVR by the same amount. This meant the rate Mr and Mrs M were charged fell from 5.03% in November 2019 to 4.38% in April 2020. And I don't think the rate Mr and Mrs M have been charged is an obvious outlier when comparing it to the SVRs of similar lenders in the residential mortgage market.

Overall, I don't find any basis on which to say that Mr and Mrs M have been charged an unfairly high rate of interest on their mortgage and loan during the period I can consider.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 23 February 2024.

Janet Millington
Ombudsman