

The complaint

Mr M's complaint is about a mortgage he has with Topaz Finance Limited trading as Heliodor Mortgages. He is unhappy that he was given no choice about his mortgage being transferred to Heliodor and that the interest rate has only gone up and has never gone down. Mr M says that Topaz hasn't provided him with help when he's asked for it and he is a mortgage prisoner, as he can't move to another lender because of his financial position.

What happened

Mr M took out a mortgage with Northern Rock in 2006. It was arranged on a repayment basis for £150,000 plus fees and had a term of 30 years. A fixed interest rate product was attached to the mortgage, which expired on 1 December 2009. When the interest rate product ended, the mortgage reverted to a variable rate of interest, with a 0.25% loyalty discount.

The mortgage was advanced by Northern Rock and following its collapse was transferred to NRAM. Mr M's mortgage was transferred to Heliodor in November 2019.

Mr M experienced difficulties paying the mortgage early on in the term. In light of this the repayment basis of the mortgage was changed to interest-only in 2007. There were periodic payment difficulties after that and the account remained in arrears until the summer of 2014.

From the point Heliodor took over the mortgage until the very end of 2021 Mr M maintained the payments to the mortgage. A small amount of arrears accrued in early 2022. The mortgage was still in arrears when Mr M called Heliodor on 12 September 2022. Mr M asked Heliodor for a payment holiday or for the arrears to be consolidated onto the mortgage balance. He was told a payment holiday was not available to him and Heliodor would need to look at his financial position before it could offer alternatives. Mr M decided not to move forward with that option. The arrears increased thereafter.

Mr M had further conversations with Heliodor in early 2023 about the arrears on his account. He remained unwilling to enter into a formal arrangement for the arrears as he was unwilling to have Heliodor assess his income and expenditure. However, Mr M said he would pay the contractual payment plus a small amount toward the arrears each month, amounting to £925 at the time. The interest rate increased in March 2023 and the contractual payment exceeded the amount Mr M has said he would pay each month and so the arrears increased.

In June 2023 Mr M told Heliodor that he would clear the arrears on his account the following month using a pay rise and a bonus he was getting from his employer. The arrears were not cleared in July 2023. Mr M raised his complaint with Heliodor the following week.

Heliodor responded to Mr M's complaint in a letter of 28 July 2023. It explained how it set its SVR and that the increase since the end of 2021 were a reflection of general interest rate increases. In relation to it being unable to provide Mr M with a fixed interest rate product, it explained that it was a closed-book lender and so it was unable to offer products. It also

explained why it had been unable to offer him a payment holiday or capitalisation of the arrears on the account.

Mr M wasn't satisfied with Heliodor's response and referred his complaint to this Service.

One of our Investigators looked into the complaint and initially explained to the parties that we could only consider events regarding the interest rate applied and Mr M believing he was a mortgage prisoner for the six years before the complaint was raised – from 12 June 2017. Neither party objected to this time limitation and so the Investigator moved on to consider the merits of the complaint. He didn't recommend that it be upheld.

Mr M didn't accept the Investigator's conclusions and said it was not a fair result, given the behaviour of Heliodor. He asked that the complaint be referred to an Ombudsman for a final decision.

What I've decided – and why

At each stage of our process, we consider our jurisdiction to consider a complaint. The Investigator explained that we are only able to consider Mr M's concerns about the interest rate payable and him being a mortgage prisoner for the six years before Mr M raised his complaint in 2023 – so back to June 2017 – although we would consider the interest rates before that time for context. I agree with the Investigator's conclusions relating to our jurisdiction and so my consideration below is limited to that time period.

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

Transfer to Heliodor

Mr M has said that he is unhappy that his mortgage was transferred to Heliodor as he had no choice in the matter. I can understand that Mr M may have liked some input into what lender his mortgage would be owned and managed by, especially as he would have liked access to new interest rate products. However, that is not how transfers of books of mortgage business work. The terms and conditions of most mortgages, including Mr M's, allow a lender to transfer the mortgage to another lender, and consent from the borrower is not needed. As the terms and conditions of Mr M's mortgage didn't change when the mortgage was transferred to Heliodor, I can't find it has done anything wrong in relation to this issue.

Interest rates and mortgage prisoner

Mr M's concerns about the interest rate applied to his mortgage having risen substantially over the last few years is understandable. However, when Mr M took his mortgage with the fixed rate attached, he was aware that at the end of that fixed rate, the mortgage would move on to a reversionary rate of SVR, less 0.25% as a loyalty discount. There was no obligation on the lender in 2009 or since to provide Mr M with new preferential interest rates.

Heliodor is a closed-book mortgage lender and this means that it doesn't take on new mortgage business and doesn't offer new interest rate products to existing customers. As I have said above, it was under no obligation to offer new products to existing customers. Since Heliodor doesn't make new products available to any of its customers, not just Mr M, I don't consider it has treated him unfairly in not doing so.

Overall, given the terms of the mortgage and the nature of Heliodor as a lender, I am satisfied that it is reasonable that Mr M's mortgage is on SVR less 0.25% loyalty discount.

I have also considered the evidence about the changes to the SVR Mr M has been on for the period that falls within our jurisdiction. The mortgage offer from 2006 makes it clear that the mortgage will revert to a variable rate at the end of the fixed rate product. There is no suggestion that the SVR is directly linked to or tracks Bank of England base rate or any other rate.

Mr M has said that the interest rate has only ever increased. Having reviewed the evidence about the SVR, that is not the case. When Mr M took out the mortgage, the SVR was 6.84%. During the period I can consider, SVR has been considerably below that rate for a large proportion of the time and has decreased at times during the period. That said, over the last three years the rate has increased on numerous occasions. The increases that Heliodor has applied to its SVR are in line with increases to interest rates in the wider mortgage market and broadly in line with increases to Bank of England base rate

Overall, I am satisfied the changes to its SVR that Heliodor made were changes it could rightly make under the mortgage contract. Nor do I consider that the changes were out of line with the wider industry. As such, I don't consider that Mr M has been treated unfairly in this regard.

Lack of support from Topaz

In 2022 Mr M asked for a payment holiday, or alternatively, to capitalise the arrears onto the mortgage balance. As Heliodor wouldn't do so, he doesn't consider it has provided him with appropriate support.

Lenders are required to look at ways to help borrowers in arrears and financial difficulties. Such help comes in various forms, such as transferring a mortgage from repayment to interest-only, deferring interest for a period of time or capitalisation of arrears. However, balanced against that is the lender's obligation to ensure that any arrangement is affordable and sustainable. The requirement for a lender to try to help a borrower doesn't mean that a consumer should be given whatever they ask for. Rather the lender needs to determine if it can put forward any proposals that will actually help the consumer and not just postpone the inevitable if the mortgage isn't and won't be affordable going forward.

Mr M asked for either a payment holiday or capitalisation of the arrears. Mr M didn't qualify for a payment holiday under Heliodor's policy, and that policy is not something I can interfere with as telling a lender what policies and processes it has, or should have, falls outside our remit. However, even if Mr M had been eligible for a payment holiday, both that and capitalisation of the arrears have a long-term effect on a mortgage. Both result in the mortgage balance increasing and so the monthly mortgage payment will also increase. Where a consumer is already struggling to pay the monthly payment, making alterations that increase the amount of that payment will only place the consumer in a more difficult position. As such, it wouldn't be an appropriate offer for a lender to make. I can't find that Heliodor was wrong to decline to give Mr M either of the options he requested.

I note that Mr M disagreed when the Investigator explained this to him. This is because the assessment didn't take into account potential changes to his and the household income or reductions in interest rates. I can understand where Mr M is coming from. However, it would be inappropriate for a lender to speculate about improvement in a borrower's circumstances. So unless there was evidence that their finances were going to improve going forward and the financial difficulties had a finite term, a lender can't assume finances will improve in the future and make currently unaffordable options affordable.

While Heliodor was not willing to offer Mr M a payment holiday or capitalise his arrears, it did offer to complete an income and expenditure exercise to see if there was anything else it

could do for him. Mr M initially declined to do so and so Heliodor was unable to offer him any assistance. I can't find Heliodor was wrong to make that decision in the circumstances.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr M to accept or reject my decision before 20 September 2024.

Derry Baxter

Ombudsman