

## **The complaint**

Mr W complains about the management of the mortgage account by Topaz Finance Limited trading as Heliodor Mortgages following a shortfall sale.

## **What happened**

Mr W and his former wife had a mortgage with a lender. Mrs W continued to live in the house and then it was sold leaving a shortfall. Mr W contacted some financial advice charities for advice and made a proposal of a one-off payment to Topaz which they refused. Mr W says that he can't get Topaz to engage with him or to respond to his reasonable offers. The shortfall debt owed to Topaz is about £66,000.00. Mr W would like Topaz to accept £13,500 in full and final settlement from money he can raise through family. But Topaz was only willing to reduce the debt to £50,000.00. Mr W believes that if he goes down the insolvency route Topaz will get a lot less so he can't understand why it won't accept it or engage with him in further discussions.

Our investigator didn't recommend that this complaint should be upheld as she didn't feel that Topaz had done anything wrong. Mr W disagreed and asked for a review.

## **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 W has a large debt hanging over him from the sale of his property leaving a shortfall. Topaz is also owed a substantial sum of money by Mr W and his wife. Mr W would like Topaz to accept a substantial reduction in the amount it is owed in full and final settlement of the debt now, but Topaz doesn't want to do that although Mr W says that if he goes down the insolvency road, Topaz will receive pennies and not the £13,500.00 that his family can presently provide.

Topaz has a contractual right to be paid the shortfall. It does not appear to be requiring immediate payment but has offered to consider payment over time. That seems reasonable. Mr W would like a large part of it written off because he says that it's in Topaz's best interests that it accepts the offer and believes it's acting unreasonably and won't engage with him. But Mr W has made his point to Topaz, Topaz has clearly considered it and rejected it and I believe I can fairly leave it to Topaz to decide what is or not in its own best interests.

Is this being fair to Mr W? Mr W would like to move on with his life, but he contracted a debt to Topaz through his mortgage and it's fair that he repays it. If he is unable to repay it presently we would expect Topaz to work with him to manage the repayments in an affordable manner. That's what Topaz is saying in the quotes Mr W takes from its website in his email to us of 31 October 2024. But there is a difference between Topaz working with Mr W to come to a repayment plan and forgoing its entitlement to be repaid in full by accepting a one-off payment of about 20% of the balance. In refusing to accept that I don't consider that Topaz has done anything wrong, and I can't fairly uphold this complaint..

**My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 December 2024.

Gerard McManus  
**Ombudsman**