

## The complaint

Mr and Mrs F complain that their mortgage, now with Topaz Finance Limited trading as Heliodor Mortgages, was mis-sold to them and incorrectly set up. They also complain that Heliodor hasn't given them copies of the signed mortgage agreements, has prevented them selling the property, and has frustrated them making a complaint.

## What happened

Mr and Mrs F originally took out a mortgage with Northern Rock in 2002. They also took a separate secured loan in 2004, also with Northern Rock. They increased their mortgage balance in 2005, 2006 and 2007.

Shortly after the last further advance, Northern Rock collapsed and was nationalised. Mr and Mrs F's mortgage was transferred to the nationalised lender, known as NRAM. It was subsequently transferred to Heliodor, which is therefore responsible for answering this complaint.

Heliodor says that Mr and Mrs F's mortgage was taken out in 2002, with further borrowing in 2005, 2006 and 2007. It says that the various further advances were taken out over different terms, based on Mr and Mrs F's requirements at the time. The final borrowing was in 2007, when all the borrowing was consolidated into one mortgage with four sub-accounts:

1. £22,634 on interest only terms over 21 years
2. £148,398 on interest only terms over 9 years
3. £13,901 on interest only terms over 6 years
4. £20,000 on interest only terms over 21 years.

The interest only elements therefore expired in 2028, 2016, 2013 and 2028 respectively. The elements that expired in 2013 and 2016 remain outstanding. In 2024 Heliodor took legal action to repossess the property to recover that part of the borrowing. In addition, because Mr and Mrs F have made no payments since May 2024, the mortgage is now in arrears.

Mr and Mrs F say that they understood that all parts of their mortgage were on the same term, ending in 2028. If that's not the case, and Heliodor requires payment before then, that means the further advances were mis-sold to them. They also say that they put their property on the market and had secured a sale, but the sale was unable to proceed because of errors in how the charge over their property had been registered.

Heliodor said there was no error. It said there were three charges over the property. There were two legal charges, added in 2002 and 2004, originally in the name of Northern Rock and transferred to Heliodor in 2019. These charges secured the original mortgage and a separate secured loan taken out in 2004. The secured loan has since been repaid but the mortgage remains outstanding – now consolidated into the 2007 mortgage offer but still secured by the earlier charges. When the mortgage is repaid, whether on sale or otherwise,

Heliodor will remove these two charges. It said that there was no reason for its charges to cause any problems with selling the property – they would simply ensure the mortgage was repaid on sale in the usual way.

Heliodor said that the third charge was nothing to do with it. This was a charging order secured over Mr F's beneficial interest in the property only, and held by NRAM not Heliodor. Heliodor said it suspected this related to an earlier unsecured loan or credit card Mr F had held which had defaulted. But to find out more, and to discuss having this charge removed, Mr and Mrs F would need to contact NRAM (under its new name) or its third party debt administrator. Heliodor gave them contact details and said it had no control over this charging order.

Mr and Mrs F have previously complained that the parts of their mortgage were on different terms. In 2016 they complained to NRAM that sub-account three should have been on a 15 year term not a 6 year term. NRAM did not uphold that complaint, and sent Mr and Mrs F a final response saying that they had six months to refer their complaint to the Financial Ombudsman Service. It doesn't seem that they did contact us at that time.

Our investigator said we couldn't consider the complaint about how the mortgage was set up, because Mr and Mrs F had made that too late. He said that the charges on the property's title at the Land Registry appeared to be correct, and wouldn't have prevented Mr and Mrs F selling their property. He said Heliodor had sent Mr and Mrs F copies of the signed loan agreements. And he said that Mr and Mrs F had been able to complain and Heliodor hadn't prevented them doing so. He didn't think the complaint should be upheld.

Mr and Mrs F didn't agree. They said they hadn't received signed copies of the terms and conditions. They said they hadn't agreed to different loan terms and hadn't seen any document, signed by them, explaining why different terms had been applied so they weren't aware of the different term lengths when they were put in place.

### **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.

I'm sorry to hear of the difficulties and ill health Mr and Mrs F have experienced. However, I'm afraid I agree with the investigator that this complaint shouldn't be upheld.

The investigator has given Mr and Mrs F copies of all the lending documents, including signed acceptance forms. The terms and conditions themselves would not be signed by Mr and Mrs F. Nor would the offers of lending – their signatures are on the separate acceptance forms that accompanied the loan offers. I'm satisfied that they've been provided with what's available, and what they've been provided with evidences the terms of the mortgage agreement.

The 2007 mortgage offer sets out the different terms of the four sub-accounts. I don't know why they were arranged for different lengths. But the fact is, they were. I can't investigate whether or not that's something that should have happened, or whether it reflected what Mr and Mrs F asked for at the time. That's because this part of their complaint has been made too late for me to consider, as I'll explain. Therefore I can't consider *why* the terms were that length, or whether they should have been different.

The rules of the Financial Ombudsman Service say that a complaint must be made within six years of the date of the event complained of – or, if this gives more time, within three years of when the complainant knew (or ought reasonably to have known) of cause for complaint.

The terms of the lending were set at various times. But even if I take the latest date, 2007, as the date of the event, that's clearly more than six years before Mr and Mrs F made this part of their complaint.

It's also more than three years since Mr and Mrs F knew, or ought reasonably to have known, of cause for complaint. I'm satisfied they would have known about the different terms when they saw the 2007 offer and signed to accept it. But even if that's not right, they clearly knew about it by 2016 when they complained about the length of sub-account three.

NRAM, the lender at the time, issued a final response to that complaint giving Mr and Mrs F six months to bring the complaint to us. They didn't do so.

That means the complaint about the length of sub-account two is out of time because Mr and Mrs F have known about it for many years but not complained. And the complaint about sub-account three is out of time because Mr and Mrs F did complain about in 2016 and then didn't refer their complaint to us within six months.

Heliodor doesn't consent to us considering out of time complaints. And I've not seen any exceptional circumstances which mean Mr and Mrs F couldn't have brought this complaint before the various time limits expired.

All that means that I cannot consider the complaint about how the loan terms came to be set up in the way that they were, or whether the mortgage was mis-sold as a result.

However, I can consider whether Heliodor's charges over the property are incorrect, or would have prevented Mr and Mrs F selling their property. I'm satisfied that the charges are correct. There are two charges, both securing Mr and Mrs F's borrowing. There are two because of the various stages in which they took out the borrowing. Although the last mortgage offer was in 2007, that was secured by the earlier charges which did not need to be replaced at that time. So the charges registered in 2002 and 2004 remain valid and secure the mortgage borrowing.

The Land Registry entry also shows that the charges were transferred to Heliodor in 2019 – again as I would expect. These charges are perfectly standard and would not have prevented Mr and Mrs F selling their property (assuming the sale price was enough to repay the mortgage; if not, they would need to agree a shortfall sale with Heliodor).

The third charge does not belong to Heliodor and it has no control over it. It has given Mr and Mrs F contact details for the firm that does own the charge so they can contact that firm direct and enquire about it. I think that's fair.

Finally, Mr and Mrs F complain that Heliodor obstructed their complaint. But I'm not persuaded of that. The regulator's rules require firms to deal with complaints, but they don't prescribe how complaints should be made. Mr and Mrs F were able to make a complaint both by phone and by email. Heliodor was required to consider and investigate their complaint, but it didn't have to make sure that Mr and Mrs F always spoke to the same person. Heliodor wasn't able to respond to their complaint within the required eight weeks, but as the regulator's rules say, the remedy for that is that it gives Mr and Mrs F the right to complain to us without waiting beyond eight weeks for Heliodor's response – and that's what they did. I don't think Mr and Mrs F were prevented from complaining, or caused any prejudice in how their complaint was handled.

### **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 F and Mrs F to accept or reject my decision before 22 July 2025.

Simon Pugh  
**Ombudsman**