

The complaint

Miss B's complaint about Topaz Finance Limited t/a Melanite Mortgages (Topaz) relates to the way in which her account was managed following repeated changes to the amount of the Contractual Monthly Payment (CMP).

What happened

Miss B's mortgage with Topaz is on a standard variable rate (SVR) which means that the CMP changes when the interest rates change. At all material times, the Department for Work and Pensions (DWP) made a payment to Topaz every four weeks in respect of Support for Mortgage Interest (SMI payment).

On 4 July 2022 Topaz agreed an arrangement to pay (ATP) with Miss B, namely that she would make a fixed monthly payment of £511.45 on top of the SMI payment of £100.31. The CMP at that time was £611.76. In a letter of the same date, Topaz also confirmed that (a) her credit file would show she was in an ATP; (b) her mortgage arrears balance was £136.10, and (c) if there were any changes to the CMP in future, Miss B would need to contact Topaz to amend the ATP.

Prior to this Miss B had raised a complaint that Topaz had incorrectly collected the full CMP in April, May, and June 2022. She also complained of some other service issues. Topaz resolved this complaint with Miss B in July 2022 with an offer of £100 compensation.

Thereafter, Miss B raised a further complaint regarding the information in the letter of 4 July 2022. Topaz accepted that their saying the ATP would appear on her credit file was incorrect, and they should have advised that the ATP would only be reported to the Credit Reference Agencies (CRAs) if the arrears on the account were equal to, or more than, one CMP at the close of business on the last working day of the month. For this error and poor service, Topaz offered Miss B £75 compensation.

On 1 March 2023 Topaz wrote to Miss B confirming that the arrears were £970.44. Miss B disputed that believing it to be an error on Topaz's part in not taking the correct amount by way of Direct Debit (DD). She also asked that her credit file be rectified regarding the recording of any late payments.

In response, Topaz accepted that the ATP had been 'input incorrectly', which I understand means recorded onto their systems incorrectly, and that had led to the accumulation of the arrears. In their final response letter of 17 May, Topaz said each time there had been an increase to the CMP they notified Miss B, and also explained that the reason she had received the letter of 1 March was because the arrears on her account at the end of February were higher than the February CMP. Topaz arranged for the late payment markers on Miss B's credit file for February, March, and April to be removed, and in recognition of the poor service, offered Miss B £100 compensation and asked her to contact them to discuss her payments and arrears.

Topaz then tried to contact Miss B on 23 May but as they couldn't they wrote to her asking her to make contact with them. On 8 June Miss B spoke to Topaz and was unhappy that the CMP to be collected that month was going to be wrong. Topaz explained this was because they had needed to speak to her to review her circumstances and check whether any changes might be affordable, before changes could be made to the ATP. They didn't accept that they had done anything wrong and rejected this part of her complaint.

Topaz said that its agent had tried to explain this to Miss B and had been unable to set up a new ATP resulting in the existing ATP expiring in June. Topaz then called Miss B once more on 13 July with the intention of trying to set up a new ATP but say Miss B refused to complete the security checks and so no further ATP was agreed. In its final response letter dated 2 August Topaz explained that in the absence of an ATP, and with there being a live DD on her account, the full CMP was collected in July and would continue to be collected going forward.

Topaz explained that if a new ATP was agreed to, then there was a risk that arrears on her account could still accrue if either the SMI payments decreased, or her CMP increased. Topaz suggested that Miss B might want to set up a standing order (SO) with her bank so that the correct amount of money was sent to Topaz each month. Topaz agreed to remove the late payment markers on Miss B's credit file for May, June, and July as they conceded that they could have made it clearer to Miss B that a report to the CRAs would be made if arrears were equal to or greater than one month's CMP.

They went on to say that Miss B had been advised repeatedly, in writing, that she must contact Topaz to amend the ATP following the receipt of their interest change letters, and so going forward she now knew how to avoid any adverse report being made to the CRAs. Miss B does not think that it is either fair or reasonable that she be asked to initiate contact with Topaz each time a new ATP is required. She has explained she has mental and physical health challenges making it difficult for her to do so. Topaz are aware of this.

Topaz have also accepted that upon review of a call from Miss B in January 2023, the length of the call time wait was unreasonable due to increased volumes of calls they were experiencing but have explained that they are working to reduce it.

Miss B was unhappy with Topaz's final response and so approached this service to see if we could assist in resolving the dispute. Our investigator thought that there had been poor service by Topaz, and it should pay £350 compensation to Miss B. Neither Topaz nor Miss B agreed and asked for the complaint to be passed to an Ombudsman for a final decision.

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've taken account of both sides' views and I've looked at the issues raised. Miss B's unhappiness with Topaz has been ongoing for some time. There have been four final response letters issued in relation to her complaints; 14 July 2022, 29 September 2022, 17 May 2023, and 2 August 2023. I know our investigator has already explained that there are certain things I can't look at because Miss B has not brought her complaints to us within the six-month time limit for doing so, and I confirm he was correct in saying that our service is only able to look at her complaints made after 1 March 2023.

I shall start with the letter of 1 March 2023 which explained to Miss B that her arrears were at that time £970.44. Topaz have accepted that the ATP had been input incorrectly leading to

the accumulation of arrears, and they saw to it that Miss B's credit file was rectified. They have therefore put Miss B back into the position which she would have been in, in addition to which they offered her £100 compensation. I think that adequately reflects the distress and inconvenience caused in relation to that issue.

Miss B was then urged to get in touch with Topaz so that going forward problems could be avoided. Ordinarily that might be a reasonable request to make, but in this instance I think Topaz ought to have done a lot more and for the following reasons.

Topaz knew that when the interest rate changed the ATP would change and thus the amount to be collected under the DD would be insufficient. Topaz knew that this would mean the ATP would require adjusting and it would need to speak to Miss B to review her circumstances and assess whether changes were affordable. They also knew of Miss B's difficulties and vulnerabilities and so should have known that they should have taken extra steps to support her with making the changes to the ATP.

Knowing that Miss B would find contacting Topaz difficult and knowing that there were likely to be many interest rate changes going forward, thus affecting the ATP, I feel Topaz ought to have supported Miss B by ensuring they contacted her, rather than waiting for her to contact them. I acknowledge that Topaz did try to contact Miss B in May 2023 and were unable to, which resulted in a letter being written, but I would have expected to see more attempts to contact her by telephone in the light of her vulnerabilities, before resorting to writing letters and waiting for a response.

On top of that I also agree that it is reasonable to expect Topaz to have in place a system that can automatically cater for all of its customers whenever there is a change in interest rates, rather than expect them to have to make contact each time.

Putting things right

In the light of this and in order to put things right I expect Topaz to put Miss B back in the position she would have been in and thus it should

1. Remove all the late payment markers on Miss B's credit file reported after July 2023 as a result of this issue.
2. Review Miss B's mortgage account and refund any additional interest and charges which have been added due to this issue.
3. Engage with Miss B to agree a plan on how to make her CMPs following any change to the interest rates or ATP.
4. Pay Miss B £350 as recompense for the service failures. I know Miss B didn't think that this was enough to put matters right, but I have given this point some further thought.

I know Miss B didn't think the investigators suggested compensation was enough to put matters right, but I have given this point some further thought.

When this service considers what an appropriate level of compensation might be, we consider a variety of factors, including the trouble, upset, distress and inconvenience that may have been caused and we try to place customers back into the position they would otherwise have been in. We categorise awards and examples of these can be found on our

website. What is important to remember is that there is no set figure, since the facts of each case are different, and ultimately it is an exercise of judgement, looking at all the circumstances of the case and coming to a figure which feels fair, when set against the effect upon the complainant of any particular service failures. I'm satisfied that £350 is a fair and reasonable amount of compensation here.

I know Miss B has asked if Topaz could increase the length of her mortgage term but this is not an issue which was raised as part of her complaint and so I cannot consider it.

My final decision

Topaz Finance Limited t/a Melanite Mortgages shall,

1. Remove all the late payment markers on Miss B's credit file reported after July 2023 as a result of this issue the subject of this complaint.
2. Review Miss B's mortgage account and refund any additional interest and charges which have been added due to this issue.
3. Engage with Miss B to agree a plan on how to make her CMPs following any change to the interest rates or ATP.
4. Pay Miss B £350 as recompense for the service failures.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 26 January 2024.

Jonathan Willis
Ombudsman