

## The complaint

Mr D and Mrs Y complain that Topaz Finance Limited (trading as Heliodor Mortgages) hasn't amended their credit files as agreed, after their previous complaint was upheld. They also say that Heliodor is incorrectly chasing them for arrears on their mortgage and they're unhappy with the general service received when trying to get these issues resolved.

## What happened

Mr D and Mrs Y took out a secured loan and a linked unsecured loan with Northern Rock. This is referred to as a 'Together' mortgage.

In 2008, Northern Rock collapsed and was later nationalised. Mr D and Mrs Y's mortgage and loan were transferred to NRAM. In November 2019, Mr D and Mrs Y's mortgage and unsecured loan were sold to Heliodor.

In 2020 Mr D and Mrs Y complained to Heliodor about the misallocation of payments they were making towards their mortgage and unsecured loan in the first half of that year.

Mr D and Mrs Y were using a paying in book to make their payments, but their deposits weren't getting credited to their accounts that had recently transferred to Heliodor. Heliodor reported arrears to the credit reference agencies (CRA) for the supposed missed payments.

Heliodor upheld the complaint. It adjusted Mr D and Mrs Y's accounts to reflect the payments they'd made. Heliodor also said it would arrange for their credit files to be amended and it paid Mr D and Mrs Y £500 compensation for the distress and inconvenience caused.

In late 2022 Mr D and Mrs Y complained to Heliodor again, because their credit files hadn't been properly updated. They also complained about a letter from Heliodor suggesting they'd made underpayments towards their accounts in recent months. Mr D and Mrs Y say that because of Heliodor's actions, the adverse information reported on their credit files is stopping them from re-mortgaging elsewhere. As such they consider themselves as mortgage prisoners.

Unhappy with Heliodor's delayed response to their complaint, and its general service, Mr D and Mrs Y brought their complaint to our service. During our involvement Heliodor answered the complaint, it said:

- When resolving Mr D and Mrs Y's complaint in 2020, it amended the arrears reported on their secured loan but not their unsecured loan. Heliodor apologised for the error and said the amendment had now been made.
- It had adhered to the Financial Conduct Authority's (FCA) guidance on dealing with customers who are in a mortgage prisoner situation. Heliodor said it wrote to Mr D and Mrs Y in late 2020 to tell them they may be able to find a cheaper mortgage elsewhere and gave information on how to explore switching lenders.
- It acknowledged it took too long to answer Mr D and Mrs Y's complaint, but it did not agree that they were spoken to badly by staff or that it was under any obligation to

- provide names of staff dealing with their complaint.
- It did not agree that it incorrectly notified Mr D and Mrs Y of arrears on their account. It said that Mr D and Mrs Y had made underpayments in October and November 2022, so a letter was sent accordingly in November 2022.
- Heliodor did acknowledge that it could have provided Mr D and Mrs Y with better information when they called to query the letter they received.

Heliodor accepted it got some things wrong and upheld part of the complaint. It offered Mr D and Mrs Y £250 compensation to apologise for its errors.

An investigator at our service looked into things and explained why she thought Heliodor had settled the complaint fairly and why she thought the amount offered as compensation was fair and reasonable in the circumstances.

Mr D and Mrs Y disagreed and asked for their case to be decided by an ombudsman. In summary they disagree that Heliodor has properly amended their credit file, as they say adverse information is still being reported. And they don't feel £250 fairly compensates them for all the issues they say they've experienced.

While waiting for a final decision on their case, Mr D and Mrs Y were provided with copies of the evidence relied on by the investigator when reaching her view.

Because an agreement wasn't reached the case was passed to me to decide. I issued a provisional decision on 20 November 2023. An extract of which has been provided below.

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

*I'll deal with each of Mr D and Mrs Y's complaint points in turn.*

#### *Credit file reporting*

*Heliodor has provided evidence of the information it has reported to the CRA's with the entries to be recorded on Mr D and Mrs Y's credit files. I can see that in accordance with their previous complaint, the entries on Mr D and Mrs Y's secured and unsecured loans have now been amended to show both accounts as up-to-date between January and July 2020.*

*Heliodor accepts that it didn't update the data relating to the unsecured loan when resolving Mr D and Mrs Y's initial complaint in 2020, as it should have done. It has since provided evidence that it notified the CRAs of the relevant changes in February 2023. I've considered the relevant evidence and I'm satisfied Heliodor has now reported the correct information to the CRAs on both Mr D and Mrs Y's secured and unsecured loans for the period relating to the misallocated payments between January and July 2020.*

*Mr D and Mrs Y complain that adverse information continues to be reported on their credit files. Heliodor has recently explained to our service that those entries relate to information reported on Mr D and Mrs Y's secured loan for a different period in question.*

*Heliodor has shown that it has reported arrears for November and December 2019 and from August 2020 to November 2020.*

*I've correlated that with the arrears statement for Mr D and Mrs Y's secured loan account and from the evidence available to me it appears Heliodor's reporting is correct. The transactions for this account show no payment was made in November 2019 and an underpayment was made in December 2019. Heliodor has also explained that even after*

*making the adjustments for the misallocation of payment in the first half of 2020, from August 2020 to November 2020 the arrears balance was more than the expected payment amount for those months – so arrears have been reported to the CRAs to reflect that.*

*I appreciate this may be new information for Mr D and Mrs Y. I've enclosed copies of the transaction history and arrears statement for their secured loan with this provisional decision, for their consideration.*

*Lenders have a duty to report accurate and up-to-date information to CRAs. Based on everything I've seen so far; it appears to me that the information reported in late 2019 and late 2020 adequately reflects the position of Mr D and Mrs Y's secured loan account in those periods. So I don't conclude that Heliodor has got things wrong in the way that it has reported data to the CRAs.*

*If Mr D and Mrs Y disagree, they're welcome to provide any supporting evidence in response to this provisional decision. I'd invite them to provide evidence of the payments made in those months and a full copy of their current credit files for me to cross reference this against the information given by Heliodor. In the absence of evidence to show the full contractual payments were made in those months, my final decision will be along these lines as set out.*

#### *Mortgage prisoner complaint*

*Mr D and Mrs Y say that because of Heliodor's incorrect reporting and the length of time it took to amend their credit files for the period relating to early 2020, they've been unable to re-mortgage with a different lender and as such they consider themselves to be mortgage prisoners.*

*The FCA defines mortgage prisoners as:*

*"borrowers who are up to date with their payments but cannot switch to a different lender or product when it might benefit them to do so. This is because they have loan and/or borrower characteristics that are outside current lender risk appetite".*

*To hold Heliodor responsible for Mr D and Mrs Y's inability to re-mortgage to a different lender, I'd need to be able to safely say that there was no other adverse information on Mr D and Mrs Y's credit file that could have possibly prevented them from obtaining a mortgage elsewhere. But for reasons I've explained that was not the case here. As such I cannot say for certain that it was solely due to Heliodor's incorrect reporting in early 2020 that Mr D and Mrs Y's credit scores were impacted. And in any event, I've also seen no evidence of a declined mortgage application.*

#### *Arrears in late 2022*

*When Mr D and Mrs Y brought their complaint to our service in November 2022, they complained about a letter they'd received from Heliodor that month saying that they'd made underpayments to their account. I can see that Mr D made several calls to Heliodor around that time to query the letter he'd received. On those calls Heliodor explained how the underpayments had occurred. This was also followed up in Heliodor's written response to Mr D and Mrs Y's complaint.*

*Heliodor has explained that Mr D and Mrs Y made underpayments in October and November 2022. Their contractual monthly payment was £837.96. They made several payments in October which totalled £600 and again several payments in November that totalled £827. So their payments were short in both months.*

*This correlates with the information shown on Mr D and Mrs Y's transaction histories across their accounts. As such I'm persuaded underpayments were made in those months and I'm satisfied that Heliodor acted in accordance with the relevant mortgage regulation by writing to Mr D and Mrs Y to notify them of the arrears on their account at that time.*

#### *Customer service*

*Mr D and Mrs Y complain about the service they received from Heliodor when enquiring about the underpayments in late 2022 and the time it took for it to answer their complaint.*

*I've listened to the calls that took place in late November and early December 2022. I'm satisfied that the staff Mr D spoke to were helpful and pleasant when answering Mr D's queries. I don't agree that the agent(s) were rude or patronising as Mr D suggests. I've heard the call where Mr D accuses the agent of such behaviour. I appreciate there was some talking over each other, but I think that largely arose from what I consider to be confrontational behaviour on Mr D's part. It seems he misinterpreted the agent's intentions to help him by her repeating the payments history again, following Mr D's misunderstanding the first time. I also accept that Heliodor is not required to provide names of its complaint handlers to its customers. This is to ensure the safety and privacy of its staff. So I don't conclude that Heliodor was at any fault here.*

#### *Data breach*

*Lastly, during this complaint Mr D and Mrs Y have also raised concerns of a data breach committed by Heliodor. They say they were sent information relating to another customer.*

*Our service has the scope to consider complaints from customers about the way a business has handled their personal information and any potential risk to them. Mr D and Mrs Y aren't complaining about the mishandling of their own personal data. If Mr D and Mrs Y have concerns about the way that Heliodor handles data in general, they may wish to speak to the information commissioner's office (ICO). The ICO regulates compliance with data protection laws in the UK. It has the power to order businesses to comply with data protection laws and to fine them. For reasons I've explained, our service is unable to consider this type of complaint.*

#### *Summary*

*Heliodor has offered Mr D and Mrs Y £250 compensation to acknowledge the distress and inconvenience caused by having to raise the issue of the delayed credit file amendment and for its delayed response to their complaint. It also acknowledged it could have provided clearer information during the enquiries made in November/December 2022.*

*I appreciate Mr D and Mrs Y feel it took Heliodor several years to properly resolve their complaint from 2020. Heliodor accepts it made a mistake, but it could not reasonably know it had got things wrong until the error was raised by Mr D and Mrs Y in late 2022. Once they raised the issue, Heliodor took reasonable steps to investigate things further and it made the necessary amendments. Granted it took longer than expected for the complaint to be answered, but having considered everything, I'm satisfied £250 fairly compensates Mr D and Mrs Y for the administration issues described above.*

*The offer amount is in line with our service's general award banding and suitably reflects and recognises the level of inconvenience caused by having to deal with these issues.*

#### *My provisional decision*

*My provisional decision is that I uphold this complaint and direct Topaz Finance Limited trading as Heliodor Mortgages to make the compensation award of £250 to Mr D and Mrs Y.”*

Both parties responded to my provisional decision. Heliodor responded to say that it agreed with my provisional findings. Mr D and Mrs Y didn't agree. In summary they dispute that their account is currently in arrears, and they don't feel that £250 fairly compensates them for the errors that have occurred to date.

### **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 have given careful consideration to Mr D and Mrs Y's response, but I note that neither party has made any new arguments, or provided any new evidence, that I've not already considered when reaching my provisional decision. So, I see no reason to depart from what I provisionally decided.

For clarity I can confirm that my provisional decision only makes reference to arrears reported to the CRA's between 2019 and 2020 and further underpayments in 2022. I make no mention of Mr D and Mrs Y's account being in arrears as of present.

### **Putting things right**

For the reasons I've explained, my decision remains that Topaz Finance Limited trading as Heliodor Mortgages should pay Mr D and Mrs Y £250 compensation for the administration issued as outlined in the "summary" section of my provisional decision. I'm satisfied that this is a fair award in the circumstances and a proportionate award in line with our published bandings.

### **My final decision**

My final decision is that I uphold this complaint to the extent that I direct Topaz Finance Limited trading as Heliodor Mortgages to pay Mr D and Mrs Y the £250 as offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs Y to accept or reject my decision before 3 January 2024.

Arazu Eid  
**Ombudsman**