

The complaint

Mr B's complaint about Topaz Finance Limited (TFL) relates to their delay in responding to his correspondence, delay in considering his request to reduce his contractual monthly payments (CMPs), and the delay and manner in dealing with his complaint.

What happened

Mr B owns a flat upon which he has an interest only buy to let mortgage with TFL, the term of which expired in September 2022. Unfortunately, his flat is within a building requiring building work to be done so that it meets current fire safety regulations. At the point of making his complaint to this service Mr B anticipated that might not be completed for 12 to 18 months.

When the term expired, TFL agreed to extend the mortgage on the understanding the property was placed on the market for sale, which it was. In mid-2023 Mr B asked for a reduction to his CMP as interest rates had risen and he was finding it difficult to sell the flat as the building work had not yet been undertaken. For the same reasons he was unable to remortgage away from TFL.

TFL sent Mr B an Income and Expenditure form (I&E) and a third-party authorisation form to complete which he returned on 14 July 2023, which TFL ultimately agreed they received on 27 July. TFL rang Mr B to chase it up at the end of July believing they had not received it, but Mr B explained they must have as it had been sent in the same envelope as the other form which they confirmed they had received.

TFL did make contact with Mr B on 3 August telling him that his I&E form would be reviewed, and although they did so, they then failed to contact Mr B regarding the outcome. There followed a number of attempted phone calls between TFL and Mr B leading Mr B to make a complaint by telephone in early September which he then put in writing on 6 September.

TFL also wrote to Mr B on 6 September confirming they had found the I&E form but required more information from him. They asked him to provide the required information by 20 September indicating that if it was not, further action which could include repossession might be taken. Unfortunately, Mr B didn't receive that letter until the 20 September and complained that the timescale imposed was therefore unreasonable. TFL explained that the delay in delivery of the letter was not their responsibility as they had no control over the postal services. They also did not accept that the timescale for a response they had given was unreasonable.

Mr B says he received no acknowledgement to his complaint and the first contact he had was on the 27 October, when a TFL agent rang him, only a few days before the eight-week period for a final response letter (FRL) was due on 30 October. TFL partially upheld Mr B's complaint and offered him £50 in compensation. But Mr B said he felt pressured to accept the offer and explanation during the call, which ultimately he did not do.

Mr B was unhappy with TFL's FRL 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 TFL and the amount of compensation offered was not sufficient. She thought £200 would be a fair and reasonable resolution.

Mr B didn't agree and asked for the complaint to be passed to an Ombudsman for a final decision. He said he had suffered approximately four months of frustration, stress and annoyance and his complaint hadn't even been acknowledged.

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 know the parties have provided more detail than set out in my summary, but I have focussed on what I see as the key issues, because it reflects the nature of our service. We are an informal dispute resolution service and an alternative to taking Court action. So, if I've not mentioned something then this isn't because I've ignored it, it's simply because I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Naturally, I have considered the views of both Mr B and TFL and all the available evidence.

On 14 July Mr B sent his I&E form to TFL. TFL say they received it on 27 July which is a long time for a letter to take to be delivered. However, I note that when TFL sent Mr B their letter of 6 September, that wasn't delivered for 14 days either. It follows that it is likely that there was a problem in Mr B's area, or TFL's, with the delivery of mail during that time. This finding leads into Mr B's complaint about delay and unreasonably imposed time limits.

When TFL issued their letter of 6 September the deadline they imposed was 14 days. That was a reasonable period for Mr B to be able to respond with the required information. The fact that he did not receive the letter until the day of the deadline is irrelevant in so far as dealing with the complaint concerning granting an unreasonable time for a response.

As to the issue of delay, TFL could not begin to consider the I&E until it had been received. That was on 27 July, and it was exactly one week later on 3 August that TFL spoke to Mr B about the form. I don't think that is an unreasonable period. TFL have accepted that it then failed to adequately deal with the I&E form which raises two issues. The first is that having reviewed the information supplied on 3 August TFL failed to respond to Mr B at that time, and secondly, it then overlooked and delayed in responding to him until 6 September. TFL accept that is poor service, and I agree it is.

Mr B has expressed his unhappiness with the way in which TFL responded to his complaint and the manner of the phone call on 27 October. I know he says he felt pressured during the call but I also note he was able to withstand any such pressure he felt, and didn't commit to giving an answer upon the suggested resolution during the call. I don't consider that asking a person if they agree to a suggested resolution is, in and of itself, pressuring that person. There would need to be something more in my view, such as an inducement or threat. In this case Mr B has said that the agent had said to him,

"I was hoping to wrap this up now over the phone as I'm off myself on Monday".

He said he found this highly unprofessional, intimidating, and stressful, feeling he had been put on the spot. Whilst that was Mr B's perception, objectively I do not see that this can amount to a pressure tactic, and nor is it unprofessional or intimidating. Mr B was also given

in writing his referral rights to this service, and so would in any event have been able to bring a complaint to us.

TFL has accepted that it didn't get things right and having considered our investigator's view it agreed to pay £200 as she had suggested. Mr B does not agree with this view believing the impact of TFL's errors has been greater than our investigator found them to be.

The question therefore becomes whether that level of compensation adequately compensates Mr B for the distress and inconvenience he experienced. When I consider the issue of compensation, I start from the point that any award for the trouble and upset caused should be balanced against the ups and downs of everyday life which we all face when dealing with other people, businesses, and organisations, and recognising that at times this can be inconvenient.

It is also very important to remember that there is no set figure for compensatory awards, since the facts of each case are different. Ultimately it is an exercise of judgement, looking at all the circumstances and coming to a figure which feels fair, when set against the effect of any failures in service on the person bringing the complaint.

When we make awards of compensation we categorise them and examples of these can be found on our website which I know our investigator has referred to. Our investigator thought there was a two-month delay in dealing with Mr B's I&E form but I don't think that is right. It was received on 27 July and dealt with on 6 September, a period just less than 6 weeks.

I do accept that Mr B was, in his words, stressing throughout September and October as to whether TFL were going to respond, but I also take account that TFL did have until the 30 October to issue their final response letter and so he would have been kept waiting for the response even if TFL had acknowledged receipt of his complaint. What Mr B's complaint goes to, therefore, is the uncertainty that his complaint had in fact been received and in that regard I note that that was confirmed to him during a call on 7 September.

Putting things right

Having considered the relevant categories of award, I do agree that this complaint is beyond the first category described on our web site, where compensation might be up to £100. I do not believe however that it can get into the third category of compensation of over £300 though. I do therefore think that the £200 suggested by our investigator is fair and is in line with the award I would expect to see.

My final decision

My final decision is that Topaz Finance Limited should pay Mr B £200 in total to resolve this complaint. For the avoidance of any doubt any amount paid to Mr B already by way of compensation should be deducted from this sum.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 September 2024.

Jonathan Willis
Ombudsman