

The complaint

Mr D complains that Topaz Finance Limited trading as Hessonite Mortgages has instructed a receiver to take over the management of his Buy To Let property. Mr D said although the mortgage was well over its term, he hadn't missed a payment.

What happened

Mr D has a Buy To Let ("BTL") mortgage with Topaz. The mortgage was interest only, and its original term ended in 2021. Mr D said he'd been paying the mortgage ever since. He said Topaz had recently appointed a receiver to oversee the property. Mr D felt this was deeply unfair.

Mr D has previously told Topaz he was trying to sell the property. More recently, he's said that he was seeking to refinance his mortgage. But Mr D said he wasn't able to refinance whilst the receiver was in place, and he wanted Topaz to undo what it had done.

Topaz said the term of Mr D's mortgage expired on 1 August 2021. By not paying his mortgage off at the end of the term, he was in breach of the mortgage terms. In April 2024, Topaz had written to him saying it would issue a formal demand for the full amount, if he didn't pay. Topaz did then issue this demand, and when Mr D still didn't pay, Topaz appointed a receiver. It wrote to confirm this appointment in June 2024.

Topaz didn't think it had been unfair or done anything wrong. It said given the time that had passed since Mr D's mortgage term ended, it felt it had no option. It said the receiver has the power to take control of the mortgaged property. But it said the receiver is Mr D's agent, not its agent. Topaz stressed that it wasn't telling the receiver what to do.

Topaz said it understood that Mr D was upset because the receiver was incurring costs on his property, for a gas inspection which Mr D said wasn't necessary. Topaz said Mr D would need to discuss that with the receiver.

Our investigator didn't think this complaint should be upheld. He said that a BTL mortgage is essentially an investment, not money borrowed to buy someone their home. These mortgages are unregulated, so lenders don't have to provide the levels of support to customers who are struggling that they would if the person was at risk of losing their home.

Our investigator said the terms of Mr D's mortgage allowed Topaz to appoint a receiver if there was a breach of contract. And not having paid off the mortgage when it was due was a breach. Topaz allowed Mr D time to sell the property, or to refinance, but nearly three years later, neither of these things had been achieved. Our investigator said he was satisfied Topaz allowed Mr D enough time to make arrangements to pay the mortgage back, before it appointed a receiver. Our investigator said Topaz could have done this much earlier. He didn't think Topaz had been unfair, and he wouldn't ask it to do anything differently.

Our investigator said that our service can't look at the actions of the receiver. They act on behalf of the borrower, and so fall outside of the jurisdiction of our service.

Mr D didn't agree. He noted that his mortgage wasn't originally taken out with Topaz, and wanted our service to also consider a complaint about the transfer of his mortgage to the existing lender, which he said was unfair.

Mr D also said the property had been his home some years ago, and he'd turned it into a rental property when he moved away from the area. He said he still planned to retire to that property in future. And Mr D said our service had taken an overly simplistic view by saying the term of the mortgage was up, so he had to pay the mortgage in full. He said we hadn't considered statutory protections he thought should cover him. Mr D said Topaz had appointed receivers although there were no arrears on the mortgage. It wouldn't offer him any refinancing options. And it hadn't waited for a sale to go through, although he said the property was under offer.

Our investigator didn't change his mind. He said we couldn't look into whether the transfer of the ownership of Mr D's mortgage created an unfair relationship between Mr D and Topaz, because Mr D hadn't yet complained about that to Topaz. And he said Mr D's contract with Topaz allowed it to appoint receivers when he was in breach of contract, which he was, as he hadn't redeemed the mortgage when the term ended. Our investigator also said Mr D wasn't acting as a consumer here, so many of the consumer protections he quoted just didn't apply.

Mr D said he'd reduced the asking price on this property, to facilitate a quicker sale. And he said he was still concerned about what happened when Topaz took over this mortgage. Mr D has since raised a new complaint with Topaz about this.

Because no agreement was reached, this case then came to me 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 reached the same overall conclusion on this complaint as our investigator.

Mr D has had a BTL mortgage on his property since at least 2006. The term of his current mortgage ended in 2021, and it has not been repaid.

So in Mr D borrowed a little over £160,000 from his original lender. He still owes that money to Topaz, the lender to whom his mortgage has been transferred. Although I understand Mr D has continued to pay the interest on the mortgage, he hasn't repaid what he borrowed, long after that repayment became due. So I do think Mr D is in breach of his mortgage agreement.

I've seen the terms of Mr D's mortgage, and those terms do entitle Topaz to appoint a receiver in these circumstances.

Mr D has referred to a number of reasons why he has not yet redeemed the mortgage, and to different plans to do so. However, unfortunately none of these plans have resulted in the redemption of this mortgage in over three years.

Just under three years after Mr D's mortgage debt became due, Topaz took steps to appoint a receiver. I am satisfied that this was a reasonable action for Topaz to take in those circumstances. I don't think Topaz had to continue to wait for Mr D to redeem his mortgage. And I won't ask Topaz to undo this action now.

I understand Mr D has been unhappy with the steps taken by the receiver since. However, the receiver doesn't act for Topaz, and our service can't review their actions. So I won't look into that here.

I know that Mr D will be disappointed, but I don't think there are any grounds for saying that the actions taken by Topaz in appointing a receiver were unfair or unreasonable. And that means this complaint won't be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 3 June 2025.

Esther Absalom-Gough
Ombudsman