

The complaint

Mr C's complaint is about a buy-to-let mortgage he had, for which Topaz Finance Limited trading as Hessonite Mortgages has responsibility. He is unhappy that having heard nothing about the shortfall debt that was created after the property was sold, he was contacted in March 2025 about paying the outstanding debt.

The mortgage was not arranged with Hessonite, but as the debt is now owned by Hessonite and it is responsible for the matters Mr C is complaining about, I will refer to it throughout.

What happened

In 2007 Mr C took out the mortgage to re-mortgage a rental property he already owned. He borrowed just over £115,000 over 23 years on an interest-only basis. Not long after Mr C experienced financial difficulties that meant he had difficulty making the monthly payments and arrears built on the mortgage. The lender took legal action and in October 2011 the property was repossessed. When it was sold in January 2012 there was a shortfall between the amount received from the sale and the debt owed to Hessonite – slightly over £36,000.

Hessonite wrote to Mr C about the debt in January 2012 and an agreement to make payments to the debt was made. Mr C made monthly payments for differing amounts over time from September 2012 until the last payment was made on 1 May 2019, at which point he told Hessonite that he couldn't afford to continue to make payments. He was asked for details of his income and outgoings, but nothing was provided.

Hessonite next wrote to Mr C in May 2024 to ask him to complete an income and expenditure form. He expressed dissatisfaction about Hessonite pursuing the debt, but provided the information requested. He also offered to pay £20 each month towards the outstanding debt – Hessonite agreed the offer Mr C made, but no payments were received.

Mr C complained in March 2025 that Hessonite was still pursuing him for the outstanding debt as he believed that due to the passage of time, he was no longer liable. Hessonite responded in a letter of 3 April 2025 and explained that under the Limitation Act 1980 it had 12 years to pursue the debt and this period started at the last date of contact. As Mr C had been making payments to the debt until May 2019, the 12 years had not expired, and Hessonite confirmed it was still able to pursue the debt.

Mr C was not satisfied with the response he received and referred the complaint to this Service. Following doing so, he added to the complaint that he believed the mortgage had been mis-sold, but he was unable to explain why he believed that was the case. Hessonite responded to the mis-selling complaint on 18 June 2025. It said that it considered the complaint had been raised too late and so it did not comment on its merits.

One of our Investigators considered both parts of the complaint. She concluded the complaint about the mortgage having been mis-sold didn't fall within our jurisdiction to consider. She didn't recommend that the complaint about the shortfall debt being pursued be upheld

Mr C didn't accept the Investigator's conclusions and asked that the complaint be referred to an Ombudsman. He confirmed that he didn't want to pursue his complaint about the mortgage having been mis-sold.

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.

Mr C has not disputed that the shortfall debt exists, rather he doesn't think that Hessonite should expect him to make payments toward it after so much time has passed.

The relevant law (the Limitation Act 1980) states that a lender must take action, from when the debt falls due, to recover:

- any principal sum of money secured by a mortgage within 12 years of the debt becoming due.
- any interest payable in respect of the principal sum of money secured by a mortgage within six years.

Mr C's mortgage was arranged on an interest-only basis, so when he made payments he was only paying the interest that fell due. This means that when he was unable to maintain the monthly payments, that sum was added to the debt as arrears. So I am satisfied that the debt at the time of the repossession would have included both the principal sum borrowed and interest on that sum.

I am satisfied that Hessonite contacted Mr C about paying the shortfall debt in 2012 when he agreed to make token payments toward the mortgage, which were later increased. This was within six years of the debt becoming payable.

Mr C then made payments to the debt until May 2019 the time limits would have been reset at that time. So Hessonite had until May 2025 under the six-year time limit to pursue any interest element of the shortfall debt and until May 2031 to pursue the principal sum. Hessonite contacted Mr C again about paying the shortfall debt in May 2024, within both of those time limits.

Ultimately, it would be for a court to decide whether or not any claim for the debt is statute time barred. However, given the events and contact between Mr C and Hessonite since 2012, I am satisfied that Hessonite is entitled to pursue the debt.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 8 December 2025.

Derry Baxter
Ombudsman