

The complaint

Ms B is unhappy with Topaz Finance Limited trading as Hessonite Mortgage's approach to handling her mortgage account. She believes Hessonite should have acted sooner, and that its failure to do so has negatively impacted her.

What happened

Ms B took out a Buy-to-Let mortgage in 2006. The mortgage is in joint names with her ex-partner, who isn't joined into this complaint. The mortgage was originally taken out with another lender, but Hessonite is the current mortgage owner and responsible for dealing with the complaint.

Ms B is represented in this case, but I will refer to her throughout for ease. Ms B has shared with us that she has been the victim of domestic and economic abuse from her ex-partner. She says the property is the only connection she still has with her ex-partner and that, as such, she wants the property to be sold.

The mortgage account has been in and out of arrears since inception. But the arrears grew rapidly throughout 2023 and 2024 when no payments were being made. Hessonite sought to engage an LPA Receiver (LPAR) in September 2024, however due to an administrative error, the LPAR wasn't appointed until November 2024.

In February 2025 Ms B raised a complaint with Hessonite. In summary, she said that her ex-partner was using the property to financially abuse her, and she questioned the steps Hessonite (and the LPAR) had taken, given the arrears on the account. Ms B became aware that the other party had made some large payments on the account, and said she wanted the property to remain with the LPAR.

Hessonite upheld the complaint in part. It said there had been a delay in appointing the LPAR, due to an administrative error, and apologised. However, it said it couldn't become involved in personal disputes and, as the arrears had been repaid, wouldn't agree to take the property into possession, or leave the property under the management of the LPAR.

Ms B referred the complaint to the Financial Ombudsman Service. In summary, she said the delay in appointing the LPAR between September and November 2024 had been very detrimental to her.

She said the property had been vacant, but that due to the delay, the joint party agreed a new tenancy agreement. And that, if the LPAR had been appointed in September 2024 as should have happened, the property could have been sold. She also said the delay had led to the account incurring unnecessary costs.

An Investigator here issued an assessment of the case. In summary, they said the part of the complaint to do with the LPAR should be dismissed. Regarding the concerns about the extent of the arrears, they said repossession would be a last resort, and that they couldn't share any details about the interactions between Hessonite and the joint party. They said based on what they'd seen, they didn't think Hessonite had done anything wrong.

Ms B didn't agree with the Investigator's assessment, raising a number of issues. This included concerns about the correctness of part of the complaint being dismissed, and the impact of the delay in anything meaningful happening from September 2024 onwards. Ms B re-iterated that this had a detrimental impact on her and she didn't think this had been properly considered.

The Investigator clarified that they could consider the part of the complaint they'd said should be dismissed. But they still didn't think Hessonite needed to do anything further. As the matter remained unresolved, it was passed to me to make a decision. I issued a Provisional Decision (PD). In it, I said the following:

"There are two things I need to clarify at outset. First, Ms B's complaint relates to a joint mortgage account. From what she has said, I can understand Ms B's desire for the property to be repossessed. However, whilst I appreciate that Ms B feels very strongly about this complaint, it wouldn't be appropriate for me to reach any conclusion that could have a detrimental impact on a party not joined in. As such, even if I were to find that Hessonite hadn't acted reasonably, it wouldn't be appropriate for me to direct Hessonite to repossess the property.

It also wouldn't be appropriate for me to share details of interactions between Hessonite and the joint party – as we don't have the joint party's consent for that to happen. As such, there are limits to what I can say when explaining some elements of the outcome that I've reached.

The other thing I need to clarify is in relation to the role of the LPAR. One of the key issues raised by Ms B is about a perceived lack of action on behalf of the LPAR, after it was appointed to manage the account in November 2024. However, whilst the LPAR was appointed by Hessonite, under the terms and conditions of the mortgage, the LPAR technically acts on behalf of the borrowers.

This being the case, I am limited in my evaluation of what's happened regarding the action or inaction of the LPAR, to Hessonite's decision to appoint the LPAR and the impact of the administrative error delaying the LPAR's appointment.

On this basis, I consider there are two key issues that I need to decide in this complaint, to determine a fair and reasonable outcome:

- *Did Hessonite make an error, or otherwise treat Ms B unfairly, in only seeking to appoint the LPAR in September 2024, by which point the account was in heavy arrears?*
- *What was the impact on Ms B of the administrative error leading to an approximate two-month delay in the LPAR being appointed?*

Did Hessonite make an error, or otherwise treat Ms B unfairly, in only seeking to appoint the LPAR in September 2024, by which point the account was in heavy arrears?

I've seen the terms and conditions for the mortgage. These set out actions Hessonite can take in different circumstances, including if the account becomes two or more months in arrears. These include appointing an LPAR, or taking possession of the property.

Crucially, these are actions that Hessonite could take under the terms and conditions of the mortgage. The terms and conditions don't bind Hessonite to take a particular course of action – ultimately such steps are at its discretion, and a lender's decision in these

circumstances will take account of various factors, including communication with the borrower(s) and its desire to protect its security.

At the point Hessonite decided to appoint LPAR, the account was more than two months in arrears, so it was entitled to do this. I appreciate Ms B thinks Hessonite should have acted sooner. However, Hessonite wasn't obliged to do so. As mentioned earlier, I cannot share the details of what was discussed between Hessonite and the joint party. But having seen details of the interactions, I'm satisfied Hessonite hasn't acted unreasonably in only deciding to appoint LPAR when it did.

What was the impact on Ms B of the administrative error leading to an approximate two-month delay in the LPAR being appointed?

Hessonite has conceded that it made an error when seeking to appoint the LPAR in September 2024. It apologised for the error, but didn't offer any kind of redress. As such, the only thing I need to decide is whether Hessonite does need to do anything further, to put things right. I don't find that it does, because I've not seen anything to persuade me that Hessonite's administrative error, led to a quantifiable loss to Ms B.

Ms B's main argument regarding the delay in the LPAR being appointed between September and November 2024, is that the delay led to the joint party agreeing a new tenancy agreement, preventing the property from being sold.

However, it's not possible to know for sure what would've happened if the LPAR had been appointed in September 2024. I don't think one can say that it's more likely than not that the property would've been sold, had this been the case. It's not clear that the LPAR would've sought to sell the property straight away and, even if it had have done, property sales are complex transactions that take time and aren't guaranteed.

In terms of any costs specifically attributable to the tenancy agreement arranged by the joint party, clearly this was caused by the joint party's actions, not Hessonite. Whilst I understand Ms B's contention that, but for the delay in appointing LPAR, the tenancy wouldn't have happened, I don't consider that means that Hessonite are fairly responsible for any such costs. I don't think it would've been reasonably foreseeable that the administrative error causing the delay, would lead to the joint party doing what they did.

I appreciate the difficulties Ms B has experienced and I am sorry to hear of the impact the circumstances of the complaint have had on her. But for the reasons set out above, I'm not currently minded to say that Hessonite needs to do anything further.

Finally, Ms B is jointly and severally liable for repaying the loan. Given this, and the broader concerns she has raised about remaining on the mortgage, she should consider getting independent legal advice about what options she might have to achieve her aims.

My provisional decision

My provisional decision is that I'm not currently minded to say that Topaz Finance Limited trading as Hessonite Mortgages needs to do anything further."

Hessonite said it agreed with the PD. Ms B did not. She said that it was expected that I wouldn't have wanted to undermine my colleague's assessment.

Ms B said she wanted me to address an e-mail sent on 3 June 2025 in relation to what the Investigator had said was within the Financial Ombudsman Service's remit. She clarified she didn't want the property repossessed, rather her complaint was about additional costs and unnecessary stress caused to her.

Ms B emphasised the extent of the arrears before Hessonite decided to engage the LPAR. She said that, but for the administrative error by Hessonite in appointing the LPAR, the joint party wouldn't have been able to let the property. And she questioned the action/inaction of the LPAR between September 2024 and March 2025.

Ms B challenged what I'd said about there being uncertainty about how things would've panned out, if the LPAR had been appointed in September 2024 as intended. She said there was merit to her complaint, Hessonite had caused her financial and non-financial loss, and reminded me that I must determine the complaint by reference to what is fair and reasonable in all the circumstances.

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.

Having done so, I've reached the same overall outcome. Before I explain why, I want to re-iterate the purpose of my role. It isn't to address every single point that's been made to date. Instead, it's to decide what's fair and reasonable given the circumstances of this complaint. For that reason, I'm only going to refer to what I think are the most salient points when I set out my conclusions and my reasons for reaching them. But, having considered all of the submissions from both sides in full, I will continue to keep in mind all of the points that have been made, insofar as they relate to this complaint.

It remains the case that it wouldn't be appropriate for me to share details of interactions between Hessonite and the joint party – as we don't have the joint party's consent for that to happen.

I note that in response to my PD (which forms part of this Final Decision), Ms B says it was expected I wouldn't want to undermine the Investigator's assessment. I can assure Ms B that I have considered the matter independently and reached my own assessment of the case.

In response to my PD, Ms B questioned the LPAR's actions (/inaction) in the months leading up to the arrears being repaid. As set out in my PD, whilst the LPAR was appointed by Hessonite, under the terms and conditions of the mortgage, the LPAR technically acts on behalf of the borrowers.

As such, my evaluation of what's happened regarding the action or inaction of the LPAR, remains limited to Hessonite's decision to appoint the LPAR, and the impact of the administrative error delaying the LPAR's appointment.

I still consider there are two key issues:

- Did Hessonite make an error, or otherwise treat Ms B unfairly, in only seeking to appoint the LPAR in September 2024, by which point the account was in heavy arrears?
- What was the impact on Ms B of the administrative error leading to an approximate two-month delay in the LPAR being appointed?

Did Hessonite make an error, or otherwise treat Ms B unfairly, in only seeking to appoint the LPAR in September 2024, by which point the account was in heavy arrears?

In response to my PD, Ms B said that the mortgage account wasn't 2 months in arrears, it was 24-30 months, with an arrears balance of around £25,000.

I didn't say in my PD that the account was only 2 months in arrears. I said that at the point Hessonite decided to appoint LPAR, the account was more than two months in arrears, and that as such it was entitled (per the terms and conditions of the account) to appoint the LPAR when it did.

I still appreciate Ms B's perspective that Hessonite should have acted sooner. However, it remains the case that it wasn't obliged to do so.

I still cannot share the details of what was discussed between Hessonite and the joint party. But having seen details of the interactions, I remain satisfied that Hessonite hasn't acted unreasonably in only deciding to appoint LPAR when it did.

What was the impact on Ms B of the administrative error leading to an approximate two-month delay in the LPAR being appointed?

In response to my PD, Ms B re-iterated her view that, but for the administrative error by Hessonite in appointing the LPAR, the joint party wouldn't have been able to let the property. Ms B also challenged what I'd said about there being uncertainty about how things would've panned out, if the LPAR had been appointed in September 2024 as intended.

Key here is that I still don't think it would've been reasonably foreseeable that Hessonite's administrative error causing the delay in the LPAR appointed, would lead to the joint party doing what they did in terms of letting the property.

Also, whilst appreciating and acknowledging what Ms B has told us about the background to this complaint, I'm mindful that Ms B was jointly responsible for keeping up with repayments on the mortgage. And that Hessonite only sought to take action due to the account being in arrears.

All things considered, I still don't find that Hessonite is fairly responsible for any costs, or upset to Ms B, that stemmed from the joint party's action in letting the property.

So, whilst I acknowledge that Ms B feels very strongly that Hessonite's role in what happened has caused her financial losses and unnecessary upset, I don't agree.

My final decision

My final decision is that I don't uphold Ms B's complaint about Topaz Finance Limited trading as Hessonite Mortgages.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 26 September 2025.

Ben Brewer
Ombudsman