

The complaint

Miss F's complaint is against Topaz Finance Limited trading as Hyalite Mortgages. Miss F's buy-to-let (BTL) property was repossessed and sold in 2012. Miss F is unhappy about the way Topaz has dealt with recovery of the shortfall balance of approximately £31,000, which Miss F believes is unenforceable due to the provisions of the Limitation Act 1980.

Miss F is also unhappy about the way Topaz dealt with a Data Subject Access Request (DSAR), that it kept contacting her and sent agents to her home, and that Topaz won't appoint a specialist person to deal with her account.

To settle the complaint Miss F would like Topaz to confirm the debt is statute-barred under the Limitation Act 1980, and to cease contacting her.

What happened

The basic background to this complaint is well known to both parties so I won't repeat the details here. Our decisions are published, and it's important that I don't include any information that might result in Miss F being identified.

Instead I'll focus on my decision and the reasons for it. No discourtesy or lack of care is intended by that. It's simply a reflection of the informal service we provide, and if I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint. This approach is consistent with what our enabling legislation requires of me.

It allows me to focus on the issues on which I consider a fair outcome will turn, and not be side-tracked by matters which, although presented as material, are, in my opinion peripheral or, in some instances, have little or no impact on the broader outcome.

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 will begin by explaining that the Financial Ombudsman Service is independent of both consumers and the businesses they are complaining about. This means that we don't act for consumers, nor do we take instructions either from consumers or businesses, or allow either party to direct the course of our investigations; were we to do so, it would compromise our independence and impartiality. It's up to us to determine what evidence is relevant and the enquiries we need to make in order to investigate a complaint.

So although I've noted the questions which Miss F would like answered, it's not part of my role to put those questions to Topaz or act as a representative for either of the parties in this complaint.

Miss F had a BTL mortgage of £136,000 which she took out in 2006. The property was repossessed and sold in 2012, leaving a shortfall on the mortgage debt of just under

£31,000. The account is now with Topaz and until July 2024 Miss F was making token payments towards the debt.

Miss F has raised a number of concerns about the account, which I've considered. My findings on these are as follows.

Topaz failed to respond to a DSAR in 2024: I've gone through the contact notes and there is no record of Miss F making a DSAR in 2024. When Miss F made a DSAR in March 2025 Topaz had to go through certain steps to verify Miss F's identity. After doing so, Topaz responded to the DSAR and sent the requested information in April 2025.

I can see that Miss F wasn't happy that information about the sale of the property wasn't included in the DSAR. However, that documentation didn't contain any personal data about Miss F and for that reason it wasn't included in the response to the DSAR.

I'm satisfied Topaz was entitled to produce documentation that was held digitally and which, when printed for the DSAR, didn't contain a letterhead. Topaz also wasn't required to separate out and staple individual documents in the way Miss F wanted.

Overall I'm not persuaded Topaz has done anything wrong here or treated Miss F unfairly in the way it handled the DSAR. If Miss F still has concerns about the DSAR, she may wish to contact the Information Commissioner's Office.

Topaz contacted Miss F by phone and sent agents to her home: I understand Miss F's concern that Topaz instructed a field agent to attend her property in January 2025. Miss F has explained that this caused her some distress.

However, Topaz had been trying to contact Miss F since January 2024 to discuss her account, obtain up-to-date details of her income and expenditure, and to see what support Topaz could provide to Miss F. Because Miss F didn't respond to Topaz's attempts to contact her, I think it was reasonable for a field agent to be instructed.

Topaz failed to provide a specialist person to deal with her account: I'm satisfied that Topaz had noted in its records that Miss F is a vulnerable person. However, in order to determine what support Topaz could provide, it needed further information about her circumstances.

Topaz told Miss F that, once it knew what support she needed, it would appoint a specialist to speak to her. I think this was reasonable, and is what I would expect Topaz to do. Miss F didn't respond to Topaz's requests for Miss F to contact it about this – both by email or telephone. Given this, I'm not persuaded Topaz treated Miss F unfairly, because it couldn't be expected to put tailored support in place if it didn't know what Miss F's needs were.

Limitation Act 1980: Miss F has asked both Topaz and our service whether the debt Topaz is attempting to recover is statute-barred under the Limitation Act 1980. The Act says that recovery action should be taken on a mortgage no more than 12 years after the right to recover arises, though that time period can be extended if the debt is acknowledged, for example, by payments being made to it.

The last payment made, thus acknowledging the debt, was in July 2024. It's a matter for a court to determine whether or not a debt is statute-barred; I don't have any power to decide this. But taking into account the law, I don't think Topaz is acting unfairly by continuing to contact Miss F about the debt.

The Investigator has previously explained to Miss F that we can't give her any advice about this issue, and that she'll need to take her own legal advice. I can't add anything more to that.

Sale of the property in 2012: Miss F says the property was sold at an undervalue in 2012. Topaz thought Miss F had left it too late to complain about this issue, and that Miss F had previously complained to our service about this.

In 2018 an Ombudsman decided that Miss F's complaint about the sale of the property had been brought too late for us to consider. Miss F is now raising the same complaint again. Under our rules, we wouldn't look at a complaint again if we've already decided that it's not one we can consider. There's no material new evidence, only the same arguments Miss F had previously raised.

As I've explained, I'm not considering the sale of the property itself, because that issue was excluded by another ombudsman in 2018. But given there was a shortfall that resulted, and that Miss F has made payments to it over the years, I don't think Topaz is acting unfairly in continuing to contact Miss F about the debt to try and understand her circumstances, see what support it can offer, and trying to come to an affordable payment arrangement.

My final decision

I know Miss F will be disappointed, but my decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 5 May 2026.

Jan O'Leary
Ombudsman