

## **The complaint**

Mr A complains that Marks and Spencer Financial Services Plc trading as M&S Bank recorded a default on his credit file despite agreeing a payment holiday.

## **What happened**

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

*Mr A had a credit card with M&S Bank. Between May and July 2020 M&S Bank put a payment holiday in place. The payment holiday meant Mr A didn't have to make any payments for three months without impact to his credit file. Interest continued to accrue and be added to the debt during this time so the balance was going up.*

*In August 2020 Mr A contacted M&S Bank again to discuss extending the payment holiday. M&S Bank asked Mr A about his circumstances. Mr A explained he wasn't working and wasn't sure when a new job would be found. M&S Bank completed an income and expenditure assessment and found Mr A was operating at a deficit of around £1,000 a month.*

*M&S Bank told Mr A it couldn't offer another payment holiday but agreed to a "no affordability hold" (payment plan) for six months. The call handler explained that no interest or charges would accrue during this period, but arrears would grow and be reported to the credit reference agencies.*

*Mr A called M&S Bank back a short time later and asked about the impact of the arrangement to his credit file. Mr A was incorrectly told there would be no impact to his credit file. The payment plan was put in place.*

*Over the following months, M&S Bank sent Mr A correspondence about his credit card, including a default notice and a formal demand. M&S Bank went on to close Mr A's credit card and record a default on his credit file.*

*Mr A complained to M&S Bank and it issued a final response. M&S Bank apologised Mr A had been incorrectly told there would be no impact to his credit file by proceeding with the agreed plan and paid him £75. But M&S Bank said the correct position had been set out during the preceding call with Mr A and didn't agree to amend his credit file.*

*Mr A referred his complaint to this service and it was passed to an investigator. They thought M&S Bank had dealt with Mr A's case fairly and didn't ask it to do anything else. Mr A asked to appeal, so his complaint has been passed to me to make a decision.*

## **What I've provisionally 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 been reasonably brief in setting out the background above as all parties broadly agree about the timeline for Mr A's complaint. M&S Bank has provided two phone recordings that show what Mr A discussed when the payment plan was offered as an option. The call recordings also show Mr A was later incorrectly told by M&S Bank that there would be no impact to his credit file.*

*I understand why Mr A is upset and agree he was given the wrong information before the payment plan was put in place. Mr A has asked for the default and adverse information to be removed from his credit file. I need to decide whether M&S Bank's error resulted in Mr A's account defaulting. To put it another way, I need to consider what Mr A would've done had M&S Bank not incorrectly told him the payment plan would have no impact on his credit file.*

*In April 2020 the Financial Conduct Authority issued guidance to lenders for customers experiencing short term financial difficulties as a direct result of the pandemic. The guidance meant businesses could offer a payment break for an initial three month period without an impact to the consumer's credit file. That's the approach M&S Bank took in May 2020 when it approved the first payment break. But the approach used didn't stop interest and charges being applied to the debt so the outstanding balance increased each month.*

*The guidance says businesses should only approve a payment deferral for a maximum of six months. And, if the nature of the financial difficulties the borrower is experiencing isn't reasonably short term, businesses were obliged to consider other options in terms of providing forbearance and breathing space.*

*I've listened to the August 2020 call Mr A had with M&S Bank. Mr A confirmed he wasn't sure when he would be able to return to work. At that point, one payment holiday had been approved but the level of debt was increasing. I think it was a reasonable point for M&S Bank to consider Mr A's circumstances and whether another payment break on the same terms was right for him. To do that, M&S Bank completed an income and expenditure assessment and asked Mr A about his circumstances. The information on Mr A's income and expenditure assessment indicated he wasn't able to afford to make payments to his credit card. And Mr A confirmed he was unclear when he would be working again.*

*I'm satisfied this was a reasonable point for M&S Bank to consider offering a different type of support. And whilst I understand arrears were reported, the "no payment hold" meant the level of debt stopped increasing as no further interest or charges were applied from that point. In addition, M&S Bank agreed to send Mr A correspondence about the credit card but stopped its collections process for six months. I think that's reasonable in the circumstances.*

*In response to the investigator, Mr A confirmed he started working again in March 2021 and could've started making payments again prior to that date by using income support. But the maximum period M&S Bank could approve a payment holiday for without impact to Mr A's credit file was six months. So the latest point it Mr A could've had a payment holiday without impact to his credit file was November 2020. And, at that point, the level of debt would've increased.*

*I know my decision will come as a disappointment for Mr A, but I think the business' decision not to approve a further payment holiday was reasonable. Mr A has told us he could've started making payments again in 2021. But I wouldn't expect M&S Bank to accept payments from benefits or income support unless Mr A could show they were affordable. Mr A told us he started working again in March 2021, but by that point the arrears would've reached a point where M&S could close and default the credit card.*

*M&S Bank has apologised to Mr A that its member of staff gave him the wrong information and sent him a cheque for £75. Whilst I'm pleased M&S Bank has apologised, I don't think the £75 settlement fairly reflects how the issues raised have affected Mr A. I'm satisfied that, following his call in September 2020, Mr A thought there would be no impact to his credit file and it's clear he was extremely upset when he found a default had been recorded. As I've said above, I'm satisfied Mr A's account would most likely have closed and defaulted even if he'd been given the correct information. But it's clear the error caused Mr A a reasonable level of trouble and upset in this case.*

*So whilst I don't intend to tell M&S Bank to amend Mr A's credit file I do intend to increase the settlement to £200 for the distress and inconvenience caused.*

I invited both parties to send me any additional information they wanted me to consider before I reached my final decision. Neither party supplied new information for me to consider.

### **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.

As neither party has provided new information I see no reason to change the conclusions I reached in my provisional decision. I still think Mr A's complaint should be upheld, for the same reasons.

### **My final decision**

My decision is that I uphold Mr A's complaint and direct Marks and Spencer Financial Services Plc trading as M&S Bank to pay hi a total of £200 (less any compensation already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 7 April 2022.

Marco Manente  
**Ombudsman**