

## The complaint

Mr P complains that TSB Bank plc (“TSB”) have unfairly reported a late payment on his mortgage account to credit reference agencies.

## What happened

Mr P says he regularly made his contractual monthly payments (“CMPs”) over the phone. But during the Covid-19 pandemic, he was spending a lot longer trying to get through, so he decided to start making his payments online instead.

Mr P attempted to pay online in November and December 2020. But when funds were returned to his account in January 2021, he realised the payments hadn’t gone through and he contacted TSB immediately to make both payments.

Sometime later, in November 2021, Mr P became aware that a late payment marker had been recorded on his credit file for December 2020. Mr P complained that he had attempted to make the payment on time, and he wasn’t made aware until the funds were returned to his account that something had gone wrong. He made the payments promptly and as he hadn’t received any letters about it – he hadn’t expected there to be any impact to his credit file.

TSB explained that it has a duty to report late payments and as the CMP hadn’t been made for December, it had correctly reported the late payment.

Our investigator looked into Mr P’s concerns, but they didn’t find that TSB had done anything wrong. Mr P disagreed, so the complaint was referred to me for a decision. I issued a provisional decision on 7 July 2022. Here is an extract:

*“Mr P was sent a letter on 1 October 2020 that said, ‘When making on-line payments please use your 14-digit mortgage number... followed by two zeros with no slashes or dashes, which will ensure that your payments will be applied across your mortgage sub accounts’.*

*Mr P also had a phone call with TSB on 27 October 2020 where this information was repeated.*

*When Mr P made his payments in November and December 2020 – he did not add the additional zeros required. As a result, the funds were not directed to his mortgage account and were ultimately returned to him in January 2021.*

*TSB has explained that Mr P had a 22p credit on his mortgage account prior to his missed payment in November 2020. That meant that when he missed the first payment, his balance was not in arrears for the full CMP amount. And in these circumstances, TSB wouldn’t usually send a letter to the customer to inform them of the missed payment. It also didn’t apply a late payment marker for that month.*

*When Mr P made the same mistake in December 2020, the account went into arrears greater than one month's CMP. So TSB would ordinarily send a letter to the customer about this, but as Mr P made the payment promptly and his account was brought back up to date – there was no need for TSB to send him a letter about it.*

*Mr P accepts that he made an error, but he doesn't feel the late payment marker is fair under the circumstances. I've thought about this carefully and I agree with our investigator that TSB didn't do anything wrong at the time it reported the missed payment to the credit reference agencies. Ultimately, TSB met its obligations as set out in the terms and conditions of Mr P's agreement.*

*That said, I do think it would be fair for TSB to offer to remove the late payment marker from Mr P's credit file. I'll explain why.*

*Mr P accepts that he made a mistake and that TSB is not responsible for that. But Mr P says he could have corrected matters much sooner if he'd been made aware of the problems and then he could have avoided any detriment to his credit file. I've already explained why TSB didn't contact him and I can't ask it to change its processes. But there is clear evidence that Mr P sent his full CMP amounts on time on both occasions – albeit with the two zeros missing from the end of the account number.*

*While the funds didn't credit Mr P's mortgage accounts when they should have – they would have been held on a TSB holding account until they were returned to him. The only mistake Mr P made was in not adding the two zeros required. His mortgage account number was clearly associated with the payments and so I think there was enough information for TSB to know which account the funds were intended for even if they couldn't process the payments.*

*Once Mr P became aware, he responded so quickly that TSB didn't send him a letter to inform him of the missed payment or possible consequences. Considering everything, while I'm satisfied TSB didn't act inappropriately originally in reporting the December 2020 "missed" payment to the credit reference agencies, I do think the late payment marker on Mr P's credit file is an unfair reflection of Mr P's account history. TSB held the funds on their accounts during the time that he's been recorded as having missed his payment. He corrected his mistake as soon as was possible. And I think it's unlikely Mr P will make the same mistake again. So, in the circumstances, I think it would be reasonable for TSB to contact the credit references agencies and advise them to remove the late payment marker."*

### **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 P didn't respond to the provisional decision, but TSB said it didn't agree it should remove the late payment marker from Mr P's credit file. It provided new evidence that shows Mr P didn't use any part of his mortgage reference number when he made the CMPs in November and December 2020, but only put 'MORTGAGE' as a reference. So TSB didn't know where to assign the money and instead the payments were returned the next working day following each transaction.

As I've said above, I agree that TSB didn't do anything wrong at the time it reported December 2020's missed payment to Mr P's credit file. TSB only met its obligations as set out in the terms and conditions of Mr P's agreement. But I still think that in the individual circumstances of this complaint, there are other factors to be considered.

Mr P regularly paid his CMPs over the phone and had no history of late payments. But Mr P found TSBs phone lines were much busier than usual and it was becoming more difficult to make his payments that way. Because of this, Mr P followed advice he'd received from TSB to make his CMPs online instead. Mr P manually attempted to make both payments – the funds left his account as far as he was aware and while he didn't put the correct reference on either payment, it's clear that he intended to make both payments on time and that he had the funds available to do so. The funds were in fact being held by TSB until they were returned.

Mr P had regularly made his payments on time using a different method up to this point and if it weren't for the recommendation he received to make the payments using a different method – his payments ought to have been received on time as usual. Mr P wasn't alerted to the fact something was wrong with the payments he'd made until sometime later. His first returned payment didn't trigger a letter to inform him that he'd missed a payment because his account wasn't in arrears up to the amount of his CMP amount. He also didn't receive the returned funds for some time. But as soon as Mr P became aware there was a problem he took action to correct it immediately.

Mr P has continued to make his CMPs on time ever since the mistake occurred – it was purely a problem with the transition to a new payment method which TSB recommended him do. I don't agree with TSB that removing the marker would not be treating other customers fairly as the circumstances may be different. Considering everything, I still think the late payment marker on his account is an unfair reflection of his payment history and I think it would be fair to have it removed under the circumstances.

### **Putting things right**

TSB should arrange for the late payment marker for December 2020's payment to be removed.

### **My final decision**

My final decision is that I uphold this complaint and direct TSB to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 12 October 2022.

Hanna Johnson  
**Ombudsman**