

The complaint

Mr J complains Bank of Ireland (UK) Plc recorded missed mortgage payments on his credit file that affected his re-mortgage application and caused him financial problems.

What happened

Mr J had a residential mortgage with Bank of Ireland (UK) Plc (BoI). In 2022 he applied to re-mortgage with another lender when his fixed term interest rate deal with BoI was coming to an end.

The re-mortgage was due to complete in early November. He spoke to BoI and let them know he'd cancelled his direct debit for his contractual monthly payment (CMP) to them. He wanted to avoid two mortgage payments being taken, one by each lender, given the re-mortgage was meant to go through in the next few days.

The re-mortgage was delayed. Mr J spoke to BoI again. He wanted to make sure his failure to make his CMP to them wouldn't be recorded as missed payments and affect his credit file. He understood from his conversations with BoI that they'd agreed to that.

The re-mortgage delays continued. It was about to complete in around March 2023. But the new lender required a new credit check because of the delays. And, following that, they refused to lend.

Mr J discovered BoI had recorded the missed payments and he complained. He blamed them for the re-mortgage not going through. He asked for the entries on his credit file to be removed. And he was unhappy with their delay in dealing with his complaint. BoI agreed they hadn't told Mr J about the credit file implications. But they said he'd agreed to BoI reporting arrears under the terms and conditions of his mortgage. They were obliged to report the history of his account truthfully. And they refused to remove the credit file entries.

Mr J didn't accept BoI's outcome. He said he'd relied on their advice in not making his CMP. And he brought his complaint to the Financial Ombudsman Service. He said BoI's actions had caused his CMP to increase and become unaffordable. He'd had to enter into agreements with other creditors which had adversely affected his credit file and would do so for the future. To put things right he wanted BoI to remove the credit entries for the missed payments and to be compensated for what had happened.

Our investigator didn't think BoI had been wrong to report the missed payments. But she said they'd provided some confusing information. And to put things right, they should pay Mr J £200 compensation for distress and inconvenience.

Mr J didn't agree. He thought our investigator's view was contradictory. If she thought BoI had given confusing information, she couldn't then say they'd done enough to let him know the arrears would be reported. If he'd known they would be, he would have paid.

Since Mr J's complaint hasn't been resolved, it's been passed to me to decide.

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 appreciate Mr J's strength of feeling about his complaint and I'm sorry to hear about the difficult financial situation he's in. I've listened to call recordings, considered Bol's records and taken into account what Mr J and Bol have told us, including recent information concerning a call Mr J had with his second charge lender. I won't set it all out here. No discourtesy is intended by that. It simply reflects the informal nature of the service we provide. I've focused on what I consider key to my decision. Whilst I understand Mr J will be disappointed, I've come to the same outcome as our investigator for similar reasons.

Mr J was obliged to pay his CMP under the terms and conditions of his mortgage. Lenders may share information with credit reference agencies (CRAs) about missed payments. And under the mortgage terms and conditions Mr J authorised Bol to, broadly, pass information to CRAs about the way in which he'd managed the mortgage. The question here is whether it was fair for Bol to do so in the circumstances of this case.

In October 2022 Mr J missed a direct debit payment for his CMP with BOI. Mr J explained to Bol he'd cancelled the direct debit since he'd understood his re-mortgage would go through shortly and the arrears would be paid at that time. He hadn't wanted to be in the position of making a CMP to both Bol and the new lender.

In early November 2022 Bol asked Mr J to contact them to discuss his account. He'd missed two CMPs. Mr J explained he'd re-mortgaged, was due to make a direct debit payment to the new lender shortly and the Bol mortgage ought to have been paid off. Mr J asked Bol to record that he wasn't refusing to pay, he was able to pay, and he didn't want the failure to pay to be recorded as missed payments. Bol said he'd need to speak to a different team about the redemption and provided the relevant contact details; they'd stop sending chasers while things were sorted out; and they'd make a note of what they'd discussed.

In fact, Bol did chase Mr J. They rang him, wrote to him and texted him at the end of November letting him know he was in arrears and asking him to contact them to arrange to bring the mortgage up to date.

Mr J says he didn't receive Bol's written correspondence. It was properly addressed. And I've no reason to think the letters weren't sent or that they wouldn't have been delivered to him. But Bol also sent Mr J a text message at the end of November mentioning possible administration fees and possession action if a solution to the arrears couldn't be found. Bol's internal records at the time noted the missed payments were likely to have an impact on Mr J's credit file.

Mr J contacted Bol to discuss things in early December 2022. By then he'd missed two CMP. He referred to his previous discussions; said the new lender had taken a CMP but due to errors by the solicitors the Bol mortgage hadn't been redeemed. He arranged to make one CMP to Bol to "tide it over" and said the whole balance would be paid in the following two weeks.

Bol said their records showed his solicitors may have found it difficult to get a redemption statement from their customer services team and offered to transfer Mr J to their redemption team to discuss steps for closing the mortgage off. The redemption team noted he was two months in arrears and making one payment wouldn't resolve that. Mr J explained the delays relating to the re-mortgage and said again he didn't want the missed payments recorded as late.

Mr J told Bol several times why he'd cancelled the direct debit, why he'd failed to pay the CMP and that he didn't want the missed payments to count against him. He was clearly aware of the possible impact on his credit file the arrears could have. Bol were treating Mr J as a customer in arrears by sending him letters and texts and requesting contact to discuss the account. Although Bol didn't tell him clearly on the calls that he should make the payments and clear the arrears to avoid them being recorded, they didn't give him any reassurance either that the arrears wouldn't be recorded when he said he didn't want them to be.

Although Bol initially told Mr J, broadly, that they wouldn't chase him for payment, they continued to do so. I think Mr J ought reasonably to have been aware from the contact Bol had with him that a failure to pay could result in Bol taking action against him. Arguably Bol could have done more to make it clear to Mr J that his failure to make payments in October and November would adversely affect his credit file if he didn't pay the arrears. He'd said several times he didn't want the missed payments recorded. Bol had several chances, up to and including the conversation in early December 2022, to let him know they would be.

But even if I thought it was reasonable for Mr J to think the missed payments from October and November wouldn't be reported, I don't think that makes a difference to the outcome of his complaint. That's because I don't think Mr J could reasonably have thought Bol would continue to hold off when he'd told them he was able to pay, they'd been chasing him for payment, and he'd missed further payments.

Whilst I understand Mr J had limited knowledge of how the re-mortgage process worked, he'd also given contradictory information about the status of the re-mortgage up to early December 2022. On the one hand Mr J had said the re-mortgage had gone through and there'd been a delay in redeeming the Bol mortgage due to a mistake by the solicitors. On the other he'd said the re-mortgage had been delayed. It wouldn't have been unreasonable for Bol to have had some concerns about the position or whether the re-mortgage would go ahead.

Bol's records suggest they didn't report any arrears until mid-January 2023. But even if I'm wrong about that, given the Bol mortgage hadn't been redeemed, despite Mr J's assurances in October, November and December it would be paid off shortly - and there was then a further delay - I don't think it was unreasonable for Bol to report the arrears.

It's unfortunate problems arose in relation to the re-mortgage. But that wasn't Bol's fault. I'm not aware Mr J kept Bol updated about what was going on after December 2022. I think he ought reasonably to have contacted Bol to discuss things and/or clear the arrears and pay the CMP falling due when the re-mortgage was delayed again. I'm not aware he did that. Nothing more seems to have been heard from him or his solicitors after they asked for another redemption statement in January 2023 until Bol contacted him to discuss the ongoing arrears in early March 2023.

Bearing all of the above in mind, I don't think it was unreasonable for Bol to report the missed payments to the CRAs.

Our investigator felt it was reasonable for Bol to pay Mr J compensation of £200. I agree. The information Bol gave Mr J when they spoke to him in early November led him to believe they wouldn't take any action in relation to the arrears. They did then chase him. So, I can understand that caused some confusion and inconvenience for a limited period. But given the later events I've mentioned, it wouldn't be fair to ask Bol to do anything further.

Putting things right

Bol should pay Mr J compensation of £200 for distress and inconvenience.

My final decision

I direct Bank of Ireland (UK) Plc to pay Mr J £200 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 6 October 2023.

Julia Wilkinson
Ombudsman