

The complaint

Mr T has complained about the information Hampshire Trust Bank Plc (“HTB”) has reported to the credit reference agencies about his buy to let commercial loan facility.

What happened

The loan agreement dated 10 December 2018 shows Mr T was borrowing £338,000 (plus fees) on an interest only basis over a ten-year term. The interest rate was fixed at 4.59% for the first five years, after which it would revert to a variable rate. This gave an initial monthly payment of around £1,320. The loan agreement said it was a remortgage of a property Mr T already owned, and the property was to be rented out. The terms and conditions said that the monthly payment would be due on the same day each month as the loan was drawn down, unless in any month that wasn't a business day in which case the payment should be made on the preceding business day.

The loan completed on 17 December 2018, so the payments were due on the 17th of each month.

The direct debit was cancelled after the first two payments (January and February 2019) were both returned as unpaid, with Mr T making the payments manually on 31 January and 28 February respectively.

The late payments continued, with the monthly payments always being made between the 28th and the 31st of each month, and then in July 2019 Mr T asked that the payment due date be changed from the 17th to the 30th of the month.

The direct debit was re-set up, and the payments were collected in August, September and October 2019, but the November payment was returned unpaid with Mr T making a manual payment that was received onto the account on 3 December 2019. The pattern of payments not being received until the following month continued over the next few years, with HTB explaining the conduct of the account wasn't acceptable.

The payment due in January 2023 was late, with Mr T not making it until 24 February, and the payment due in February 2023 wasn't made until 27 March.

Mr T spoke to HTB on 28 April as the March payment still hadn't been made, and he was told he needed to pay both March and April to bring the account up to date. Mr T did a bank transfer for the March payment on 29 April, but as this was a Saturday and the following Monday was a bank holiday, the payment wasn't received on the account until 2 May.

At the end of May Mr T asked why his credit record showed a missed payment. He said he was in the process of remortgaging to another lender, and he'd heard rumours that lenders do this to stop mortgages moving to another lender when the fixed rate ends.

HTB responded to the complaint on 13 June 2023. It said the March 2023 payment wasn't received until 2 May so it was over a month late, and it has a duty to report accurate

information to the credit reference agencies. It upheld a small part of the complaint in respect of how a call at the start of May had been handled, and for that it offered £50 compensation.

Unhappy with HTB's response, Mr T referred the complaint to our service. In a call with our Investigator Mr T said he hadn't been able to speak to the bank due to the way it was dealing with him, saying it was bullying him and he was scared to talk to it on the phone. He said he had the money available on 28 April, but thought he'd just make the payment the following day as the bank gives him until the end of the month to make the payment before his credit file is impacted.

Our Investigator didn't uphold the complaint. He said that whilst Mr T made the payment on 29 April, that was a Saturday and the Monday was a bank holiday, which meant the first working day was Tuesday 2 May and that was the day HTB received the payment. He said Mr T called HTB on 28 April to ask for its bank details, and Mr T said he couldn't discuss things at that time as he was driving and that he'd call back, but then didn't. Our Investigator said HTB hadn't made a mistake in when it marked the payment as received or in how it reported the conduct of the account to the credit reference agencies. He agreed that HTB didn't handle the call at the start of May as well as it could and that £50 was fair compensation for that.

Mr T said he'd like to take things further, albeit didn't say what he specifically disagreed with, and so the case has 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.

Since July 2019 Mr T's payments have been due on the 30th of each month. Of the 52 payments Mr T made over the life of this loan (up until June 2023), only 10 of those were received on time. The remaining 42 payments were received anything up to 30 days late, with the payment at the centre of this dispute being received 33 days late. It wasn't the payment due on 30 April that wasn't received until 3 May, it was the payment due on 30 March.

The terms and conditions of the loan say:

- 3.3 The first payment of Interest is payable by You on the date that is one calendar month immediately following the date of the first drawdown of the Facility and thereafter on the same day in each subsequent calendar month save when such day is a day which does not appear in any month (such as 29, 30 or 31 of any month where applicable) or where such a date is not a Business Day when the payment of Interest shall be made on the preceding Business Day.

I'm satisfied from this that HTB made it clear to Mr T before he took out the loan that any payment that fell due on a non-business day (such as a weekend) would need to be made the business day before.

Mr T made the payment on 29 April, which was a Saturday and the end of the month was a Sunday (30 April). If Mr T wanted the payment to count as having been made in April then he needed to make it no later than Friday 28 April, which was the last business day of the month. As the March payment wasn't made before the last business day of April then it was reported to the credit reference agencies as such.

Mr T has said that he was scared to phone HTB to make the payment, but he'd received calls from HTB on 12 and 26 April, as well as calling HTB on 28 April, and in any event he didn't need to speak to HTB to make a payment as he held its bank details. In the call on 26 April Mr T read out HTB's bank details and it confirmed those were correct, and he'd previously made payments in that way, so he could simply have made the payment by bank transfer before 29 April without needing to speak to the bank.

In summary, the terms and conditions of the account are that a payment must be made every month on the due date (or on the last business day before where the due date is a non-business day). As the March 2023 payment wasn't received by HTB until 3 May (as Mr T made it after the last business day in April) the information HTB reported to the credit reference agencies about Mr T's account is correct.

HTB has a responsibility to report accurate information to the credit reference agencies, as it has done. There are no grounds for me to order HTB to amend Mr T's credit file information as it is a true reflection of the conduct of his account. If Mr T wants to add an explanation to his credit file, he can contact the credit reference agencies directly and ask to add a notice of correction, that way other lenders can read Mr T's explanation for the situation when they are deciding whether or not to lend. But I can't order HTB to remove the marker as it is an accurate representation of what happened.

I agree that the call handling after the event could have been better. Whilst HTB didn't handle that as well as it could, it doesn't impact the overall outcome of the complaint as it happened after the payment had been made. Having considered everything very carefully I'm satisfied the £50 already offered by HTB for that aspect is fair.

My final decision

I don't uphold this complaint about the information that was reported to Mr T's credit file.

Hampshire Trust Bank Plc has already made an offer to pay £50 in respect of the call handling and I think this offer is fair in all the circumstances. So my decision is that Hampshire Trust Bank Plc should pay £50. I make no further order or award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 11 June 2024.

Julia Meadows
Ombudsman