

The complaint

Ms K is unhappy that The Mortgage Works (UK) Plc (“TMW”) didn’t clearly inform her that accepting a nil-payment concession on her mortgage would adversely impact her credit file.

What happened

Ms K called TMW on 28 June 2023 and asked for a payment holiday on her mortgage until she could sell the mortgaged property. TMW discussed Ms K’s financial position with her and said that they could agree a nil-payment concession with her, but that they would need Ms K to complete an income and expenditure form so that they had a clear understanding of her financial position before they could do so.

Ms K completed the income and expenditure form as requested, and she spoke with TMW again on 27 July 2023. At this time, TMW reviewed the income and expenditure information Ms K had submitted with her and agreed to a nil-payment concession for three months.

Having agreed a nil-payment concession with TMW, Ms K didn’t make her mortgage payment for September 2023. But Ms K then discovered that because she’d not made that payment, TMW had applied an adverse marker on her credit file for that month. Ms K wasn’t happy about this and felt that she wouldn’t have accepted the nil-payment concession had the impact on her credit file being explained to her. So, she raised a complaint.

TMW responded to Ms K but didn’t feel that they’d done anything wrong regarding what they’d told her about the nil-payment concession. But TMW did offer Ms K £75 compensation for another issue. Ms K wasn’t satisfied with TMW’s response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they didn’t feel TMW had acted unfairly in how they’d managed the situation and so didn’t uphold the complaint. Ms K remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

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 issued a provisional decision on this complaint on 1 May 2024 as follows:

Ms K has said that it wasn’t made clear to her in the calls she had with TMW that accepting the nil-payment concession could have an adverse impact on her credit file. And, having listened to the calls that Ms K had with TMW on 28 June and 27 July 2023, I can understand why she would feel that way.

From listening to those calls, it seems clear that both of TMW’s agents were sympathetic to Ms K’s predicament and were genuinely trying to help her. And it’s also clear that Ms K was significantly distressed by the difficult financial position that she found herself in.

But having listened to both calls, while there are instances when the fact that Ms K accepting a nil-payment concession would be reported to her credit file with potentially adverse results is mentioned, I don't feel that either of TMW's agents took the time to clearly explain this point to Ms K.

For instance, the first agent that Ms K spoke with, on 28 June 2023, explained as follows:

"We can set a nil-payment on there, but it's technically not a holiday. Payment holidays don't exist with TMW mortgages, they never have done. We can agree it, because you can only afford what you can afford. But if we do it, it would be a concession at nil. And obviously that would mean that until the house sells, there may be some arrears that develop."

But while TMW's agent correctly mentions account arrears here, he only states that they 'may' develop, and not that they 'will' develop (which was always going to be the case with a nil-payment concession). And TMW's agent doesn't then elaborate and provide a clear explanation about how the arrears that will accrue would be reported to Ms K's credit file.

Similarly, the second agent that Ms K spoke with, on 27 July 2023, explained thus:

"I don't know what the previous conversation was, but we haven't agreed anything with you. If you just cancel the direct debit without us agreeing a plan with you, you could start getting letters and calls. So, that's the reason I'm calling you today, to see if we can agree an official arrangement. Obviously, if you're not going to pay anything it does go into arrears and it does have an impact on your credit file."

Again, I feel that this explanation isn't clear. And I can understand how Ms K might have taken it to mean that her credit file would be impacted if there wasn't an agreement in place, but that it wouldn't be impacted if there was an agreement in place – which TMW's agent was calling to arrange at that time. I also note that the above quoted conversation took place at the beginning of the call, before the details of any arrangement were discussed or agreed with Ms K. So, I can appreciate why Ms K didn't think what the adviser said about the credit file would apply to her.

Finally, I note that when Ms K agreed the nil-payment concession with TMW, she was sent a letter entitled 'Confirmation of your mortgage concession'. But again, while this letter referred to account arrears and potential credit file impact, I don't feel that it was sufficiently descriptive such that Ms K was given a clear understanding of what the actual impact on her credit file would be.

Specifically, the letter explained as follows:

"As you're paying less than your full monthly instalment, your arrears will continue to increase, and the amount may vary depending on the interest rate and the payments you make."

And:

"Details of this temporary concession will be passed onto Credit Reference Agencies, which are used by lenders to work out whether to lend you money or not. Any missed or late payments are recorded on your credit file for six years and could affect your ability to obtain credit in the future."

But while the above does reference arrears and credit reference agencies, I don't feel that it's clear enough to dispel the incorrect understanding that I feel it was reasonable for Ms K

to have held at that time – which was that if she agreed to a nil-payment concession with TMW, that there would be no impact on her credit file. And I can similarly understand why Ms K may have felt that she wouldn't be missing or be late on any payments such that her credit file would be affected, because she was arranging an agreed concession.

Given that I feel that Ms K may reasonably have held an incorrect understanding about the impact that agreeing to a nil-payment concession would have had, I've moved to consider what I feel that Ms K would most likely have done, had it been clearly explained to her that agreeing to that concession would have an adverse impact on her credit file.

To this end, I've considered what Ms K told TMW's agents on the telephone, which in short was that she was in a dire financial position. But I've also considered Ms K's actions when she learned of the arrangement marker that had been placed on her credit file by TMW because of the concession – which was that Ms K paid the mortgage payment that she'd missed and resumed her contractually required monthly mortgage payments.

Because of the swift actions of Ms K in restoring the contractually required position of her mortgage, I feel that it is more likely than not that she would have declined the nil-payment concession, had the impact of her accepting it been made clear to her. And I say this because it seems clear to me that maintaining her credit file in good order was important to Ms K – as confirmed by her actions.

All of which means that I'll be provisionally upholding this complaint in Ms K's favour and instructing TMW to remove the payment arrangement marker from her credit file and to instead report that Ms K remained up to date on her mortgage payments throughout this period – which as explained, I feel would most likely have happened had Ms K more clearly understood the consequences of accepting the nil-payment concession.

But I must reiterate that I don't feel that TMW did much wrong here, other than not being sufficiently clear in their communication. Indeed, as stated earlier, I feel that TMW's agents acted in good faith and with Ms K's best interests in mind, especially given the clear distress that Ms K was in on the calls with TMW's agents and the severity of the financial position she explained to them. And because of this, I won't be instructing TMW to pay any compensation to Ms K regarding this aspect of her complaint, because I don't feel it would be fair on TMW to do so.

Ms K has also mentioned that she felt that the second TMW agent she spoke with was uncaring in how they discussed the saving that Ms K would have, following the sad passing of her pet dog.

But while I can appreciate why this would be a very emotive subject for Ms K, having listened to the call I don't agree with her criticism of TMW's agent here. Rather, I feel that TMW's agent handled the matter with appropriate delicateness and was clearly mindful of Ms K's distress. And given that the purpose of the call was to confirm Ms K's exact income and expenditure, I don't feel it was unreasonable for TMW's agent to question whether Ms K would still incur vet fees, especially as TMW's agent didn't know whether Ms K had any other pets, such that vet fees might still be incurred.

Finally, TMW have accepted that when Ms K called them later, in October 2023, that she was given incorrect information about resetting her mortgage payment direct debit which led to her missing a mortgage payment. TMW have apologised to Ms K for this misinformation and have removed the missed payment marker from her credit file so that she isn't adversely impacted by their mistake. And TMW have also offered to pay £75 to Ms K for any trouble or upset this provision of incorrect information may have caused.

TMW's actions here seem reasonable to me, and I feel that they fairly resolve this aspect of Ms K's complaint. And I can confirm that the £75 payment of compensation that TMW have offered is commensurate with what I may have instructed TMW to pay, had that offer not been made. As such, my provisional decision here also includes that TWM must pay the £75 to Ms K that they've previously offered to pay.

TMW responded to my provisional decision and asked me to listen to a recorded call between Ms K and one of their agents which they felt demonstrated that Ms K had been told that accepting the nil-payment agreement would have an adverse impact on her credit file. However, the call that TMW provided was the same call that had already been provided to this service by TMW previously and which I'd already listened to and considered.

Accordingly, given that TMW haven't provided any new information, but have asked me to review information that I've already considered, I can confirm that my position as outlined in my provisional decision above remains unchanged.

Ms K also responded to my provisional decision and confirmed that she was happy to accept it. As such, I see no reason not to issue a final decision whereby I uphold this complaint in Ms K's favour on the basis described in my provisional decision. And I therefore confirm that my final decision is that I do uphold this complaint in Ms K's favour on that basis.

Putting things right

TMW must remove the payment arrangement marker from Ms K's credit file and instead report that Ms K remained up to date on her mortgage payments throughout that time.

TMW must also pay £75 to Ms K.

My final decision

My final decision is that I uphold this complaint against The Mortgage Works (UK) Plc in the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 9 July 2024.

Paul Cooper
Ombudsman