

The complaint

Mr M complains about the information Bank of Ireland (UK) Plc (BOI) has recorded on his credit file about his buy-to-let mortgages. He says it should have recorded the mortgages as partially settled when his bankruptcy was discharged and then stopped recording information about them, but instead it recorded the mortgages as active with recent missed payments.

What happened

Mr M has three buy-to-let mortgages with BOI. He was declared bankrupt in February 2018 and discharged in February 2019. The mortgages continued to be paid during and after Mr M's bankruptcy and discharge, until late 2022 when payments stopped.

In 2024 Mr M made a complaint to BOI. He was unhappy that it had continued to report the operation of the mortgages on his credit file after his bankruptcy was discharged in 2019. He said this was affecting his ability to get credit.

BOI said it had done nothing wrong, and that it was right to continue recording payments and arrears on the mortgages while they were still open.

Mr M asked the Financial Ombudsman Service to look into his complaint. Our Investigator thought that BOI had put the wrong information about the mortgages on Mr M's credit file. He said it should record them as having been partially settled at the date of Mr M's discharge from bankruptcy in February 2019, remove the information it had reported since, and stop updating Mr M's credit file with the status of the mortgages. He also recommended that BOI pay Mr M £150 for the distress he had been caused.

BOI didn't accept that conclusion and asked for an Ombudsman to make a decision. It provided a copy of a final decision that was made on another borrower's complaint some time ago, and said it thought our Investigator's approach to Mr M's complaint was inconsistent with the outcome of the other complaint.

Mr M didn't accept the Investigator's recommendation either. He said he should fairly receive more compensation in light of the significant inconvenience and ongoing impact of this matter. He later also said that BOI was continuing to cause distress by writing to him asking for payment of the mortgages.

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.

BOI has said that it has no record of Mr M's three mortgages with it having been included in his bankruptcy, and it didn't know about Mr M's discharge until he told it recently. Mr M hasn't provided anything to show otherwise, and I note that the mortgages continued to be paid during his bankruptcy and for some years afterwards. The properties weren't repossessed by BOI and the trustee didn't sell them as a result of the bankruptcy.

It would have been for Mr M or his trustee in bankruptcy to let BOI know about Mr M's bankruptcy and discharge, and I accept that BOI wouldn't necessarily otherwise have known about them. The mortgages, as secured debts for which Mr M was solely responsible, must nevertheless have been included in his bankruptcy.

The complaint at hand here is not however about the payments Mr M has made to the mortgage or the steps BOI has taken to seek payment. It is about how BOI has reported the operation of Mr M's mortgage on his credit file, and in particular what it has reported following Mr M's discharge from his bankruptcy in 2019. I haven't seen anything to indicate that BOI knew, or reasonably should have known, that Mr M's bankruptcy had been discharged until Mr M told it some years later.

BOI does however now know about Mr M's bankruptcy and discharge. It should therefore have recorded the mortgages as defaulted at the date of his bankruptcy in February 2018 (although the defaults would by now have fallen away as more than six years have passed). I agree with our Investigator that it should also then have recorded the mortgages on Mr M's credit file as partially settled at the date his bankruptcy was discharged in February 2019, followed by no further credit file reporting about the mortgages, including any payments or non-payments, after that date. This is in line with relevant guidance published by the Information Commissioner's Office.¹

While BOI can still enforce its security (by repossessing and selling the properties), Mr M's discharge from bankruptcy released him from the mortgage debts. BOI shouldn't therefore have continued to report the operation of the three mortgages to credit reference agencies following Mr M's notification to it of his discharge. In doing so it continued to report debts for which Mr M wasn't liable, and that he had made or missed payments he wasn't required to make.

BOI says this approach is inconsistent with the approach taken in another complaint which the Financial Ombudsman Service considered in 2022. I've read the decision in that complaint. It is principally about the date of default on a mortgage rather than about continued credit file reporting, and it involved multiple borrowers rather than one sole borrower. In any event, I must decide this complaint on its individual facts and circumstances, bearing in mind relevant law and guidance. For the reasons I've explained, I'm satisfied that BOI has wrongly reported Mr M's mortgages on his credit file and it should now amend that.

I also consider that Mr M should fairly receive some compensation, in recognition of the impact on him of BOI not having made the appropriate credit file amendments sooner. While I realise Mr M doesn't think it goes far enough, I share the Investigator's view that £150 is fair and reasonable in the circumstances. I can certainly see that recent missed mortgage payments on his credit file would have affected any applications Mr M might have made for credit, but his recent bankruptcy would also have had an adverse impact. I think it would be difficult for me fairly to conclude that BOI's credit file reporting was the sole reason for any applications Mr M made being rejected.

I've taken account of what Mr M has said about why an award of up to £750 would be fairer. But, in all the circumstances of this complaint, I don't consider that BOI's mistakes have had a considerable impact such that an award at that level would be fair and reasonable. I think that Mr M has been put to some inconvenience and spent some time trying to get his credit file corrected, and I find that £150 represents a fair way to put that right.

¹ 'Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies', available at <https://www.scoronline.co.uk/key-documents/>

Finally, since referring this complaint to us, Mr M has said he doesn't think BOI should be asking him to pay the mortgages. BOI should first have the opportunity to deal with a complaint about that if Mr M wishes to make one; this complaint is only about what BOI has put on Mr M's credit file about the mortgages. It may nevertheless be helpful for both parties to point out that while Mr M is no longer liable for the mortgage debts, BOI is still entitled to rely on its security for them and to enforce it.

Putting things right

For the reasons I've explained, if Mr M accepts my decision Bank of Ireland (UK) Plc must:

- amend Mr M's credit file to:
 - a) show all three mortgages as partially settled on the date Mr M was discharged from bankruptcy (February 2019);
 - b) remove all further details about the operation of the mortgages since February 2019, and no longer report the operation of the mortgages on Mr M's credit file after that date;
- pay Mr M £150 compensation.

My final decision

My final decision is that I uphold this complaint and Bank of Ireland (UK) Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 February 2025.

Janet Millington
Ombudsman