

## **The complaint**

Mr A complains that direct debit payments for his buy to let mortgage with Bank of Scotland plc trading as Birmingham Midshires were set up incorrectly. He reversed the payments, thinking he was the victim of a scam. Birmingham Midshires recorded mortgage arrears on Mr A's credit file and he'd like this removed.

## **What happened**

Mr A took out a buy to let mortgage with Birmingham Midshires in early 2024. The mortgage was arranged by a broker.

Mr A saw direct debit payments taken from his personal current account in April 2024 and May 2024. He thought this was a scam and reversed the payments using an indemnity claim. However, these were his monthly mortgage payments. This put the mortgage into arrears. Birmingham Midshires recorded arrears on Mr A's credit file for May 2024.

Mr A says the broker gave details for the wrong account to Birmingham Midshires. He said the mortgage payments should come from his business account, not his personal account. He says this was a genuine mistake and asks that Birmingham Midshires removes the arrears from his credit file.

Our investigator said Birmingham Midshires collected the payments using the account details it had been given. It had written to Mr A confirming the account details for the mortgage payments. Our investigator said the information Birmingham Midshires recorded on Mr A's credit file was accurate.

Mr A didn't agree. He said he didn't receive the letter confirming the details for the mortgage payments. Mr A said he'd never missed payments before and the adverse information on his credit file had impacted him unfairly.

## **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 A took out a buy to let mortgage with Birmingham Midshires. He agreed to make monthly payments by direct debit.

Birmingham Midshires wrote to Mr A in late March 2024. It set out the amount of the monthly payments, the date they'd be taken and the details of the account for the direct debit. Birmingham Midshires had sent a copy of Mr A's mortgage application to him in February 2024. This also set out the details of the account for the direct debit.

Birmingham Midshires took payments for April 2024 and May 2024. Mr A reversed these payments in mid-May 2024 using an indemnity claim. This meant the mortgage was two months in arrears at the end of May 2024.

Mr A received a letter from Birmingham Midshires asking him to bring the account up to date

and provide a new direct debit mandate. Mr A made a payment in early June 2024 which brought the account up to date.

I can't uphold this complaint unless I find that Birmingham Midshires made an error.

I don't think Birmingham Midshires made an error when it set up and collected the direct debit payments using the account details it had been given. It wrote to Mr A on two occasions with the account details. It's unfortunate that Mr A didn't receive the letter sent in March 2024. Birmingham Midshires isn't responsible for any problems with post being delivered.

Lenders have to report information to the credit reference agencies that is fair, accurate and up to date. Birmingham Midshires recorded Mr A's mortgage as in arrears in May 2024. It's shown as up to date after this. I don't think Birmingham Midshires made an error when it recorded the account as being in arrears in May 2024. This was accurate information.

The question for me to consider then, is whether Birmingham Midshires should fairly have removed the arrears from Mr A's credit file, once he'd explained what happened. This might be fair in some circumstances. For instance, if the payments were missed due to circumstances outside Mr A's control – such an error by Birmingham Midshires or the paying bank. I don't think that's the case here. I've explained why below.

Mr A said his broker provided the wrong account details for the direct debit. Mr A hasn't provided evidence to support this – for example evidence that he gave the details for the business account to the broker and asked the broker to use that account.

More recently Mr A said he'd spoken to his broker who said Birmingham Midshires asked for the wrong account details. Mr A didn't provide evidence to support this. I think this is unlikely, especially given these account details were included in the mortgage application.

Either way, I need to take into account that as well as the letter that Mr A says he didn't receive, Mr A was sent a copy of the mortgage application which included the account details for the direct debit.

Mr A says when he saw the unexpected payments from his personal bank account he tried to call Birmingham Midshires, to ask about the payments. He says he was told by Birmingham Midshires he didn't have an account with it. Birmingham Midshires has no record of a call from Mr A until June 2024 – that was after the arrears were recorded.

Mr A was concerned the payments from his account were a scam and arranged for them to be reversed using an indemnity claim. While I appreciate that Mr A was worried about the payments, they were reversed on his instructions. The reversal didn't happen due to an error by Birmingham Midshires or the paying bank.

Mr A brought his account up to date promptly after receiving the letter from Birmingham Midshires asking him to do so and has made payments on time since. Mr A says he's always made payments on time – in effect he saying the information recorded on his credit file doesn't reflect how he usually manages his credit payments.

However, this is a buy to let mortgage. Letting property is a business. This includes arranging and managing finance for the business. Mr A is responsible for making mortgage payments on time.

Mr A was aware that he needed to make monthly mortgage payments – this is set out in the mortgage offer. It seems Mr A didn't check that the details for the direct debit were correct or

check that the mortgage payments due in April 2024 and May 2024 were taken from his business account. Had he done so, he might have been able to sort the payments out and avoid the arrears marker on his credit file.

Mr A says this was a genuine mistake and the arrears data on his credit file has unfairly affected him. While I understand Mr A's concerns, that's not enough for me fairly to require Birmingham Midshires to remove the arrears. The record of the arrears is accurate – Mr A's mortgage was in arrears at the end of May 2024. This wasn't due to an error by Birmingham Midshires. For the reasons I've given, I don't think it's fair and reasonable in the circumstances to require Birmingham Midshires to remove the arrears from Mr A's credit file.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 27 February 2025.

Ruth Stevenson  
**Ombudsman**