

The complaint

Mr W complains about his buy to let mortgages with Bank of Scotland plc trading as Birmingham Midshires (BM). He complains that BM is reporting the mortgages as being in arrears even though he's not making payments through no fault of his own.

What happened

Mr W has four buy to let mortgages with BM. They're secured over leasehold properties. Due to a dispute with the freeholder, the properties cannot be accessed and so Mr W has not been able to let them out for some years. As a result the mortgages have fallen into arrears.

BM has reported the arrears to Mr W's credit file. Mr W doesn't consider this fair, as the circumstances are out of his control. The credit file reporting has had a significant impact on him, for example preventing him re-mortgaging his residential property. He says that there's nothing in the mortgage terms and conditions that deals with this situation and the credit file reporting isn't fair. Mr W also complains that BM has taken legal action and has added legal costs to the mortgage.

BM said that it had reported all four mortgages accurately. No payments were being made, the mortgages were in arrears, and that was what it had reported.

Mr W brought his complaint to us. Our investigator didn't think it should be upheld. So Mr W asked for the complaint to be reviewed by an ombudsman.

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 note that Mr W has previously complained that the mortgages were taken out in his name without his knowledge or consent. Another ombudsman has issued a decision in relation to that complaint and so that's not something I can reconsider here. In this decision, I'm focussing on the current complaint about what is being reported to Mr W's credit file and the impact of the dispute with the freeholder.

The last payments made to these mortgages were in April 2023. When a mortgage falls into arrears, a lender will report "AA", "BB", or "AR". AA means early arrears, BB means more substantial arrears, and AR means there are arrears but the borrower is in an arrangement to pay. In addition, a lender reports "1" to "6" depending on the level of the arrears. "1" means the total arrears is equivalent to at least one monthly payment, and so on. "6" is the maximum, so a lender will continue to report "6" once the level of arrears exceed the equivalent of six monthly payments, however high the arrears actually are.

With that in mind, I've looked at what BM has reported. It reported AA in May and June 2023, and has reported BB since then. And it reported 1 to 6 as the arrears grew, and has been reporting 6 every month as they have continued. That is correct, in that it accurately

describes the position of the mortgages. Mr W has made no payments since April 2023, and that is what BM has reported.

I've also thought about whether the reporting is fair. And I think it is. I appreciate the difficult situation Mr W is in. But he does have an ongoing obligation to make the mortgage payments. The problem with the property doesn't change that, though of course it makes keeping up with the payments more difficult. BM is obliged to report the mortgages accurately, and that's what it's done.

It's not unreasonable that Mr W's credit file shows that he has four outstanding mortgages to which he's currently making no payments. Regardless of the reasons for that, that's actually the situation and it's a relevant factor about his circumstances that other lenders considering applications for credit are entitled to take into account.

I appreciate this causes Mr W difficulty in making applications for other credit. But I'm afraid that's not a reason to require BM to remove the arrears reports. If other lenders have refused credit because of the arrears, then that shows that the arrears are a relevant factor those other lenders want to know about, and it wouldn't be fair to ask BM to show the mortgage as not being in arrears when that's not accurate. But Mr W can always explain the situation to other lenders so they can take the reasons behind the arrears into account. And he can add a notice of correction to his credit file too.

Given that no payments have been made for several years, I don't think it was unreasonable that BM instructed its solicitors to begin legal action to repossess the properties. And it's entitled to add the costs to the mortgage balances, as set out in the terms and conditions. But BM has put its own legal action on hold to give Mr W time to pursue his legal claim against the freeholder. It said it would put things on hold for six months. I think that's fair.

I do appreciate there's a dispute with the freeholder here. But that's not something I can comment on, and it's not something BM can be involved in either. I don't think BM has acted unfairly in reporting what has happened with the mortgages to Mr W's credit files, or in allowing Mr W more time to progress the dispute with the freeholder. I don't therefore uphold this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 April 2026.

Simon Pugh
Ombudsman