

complaint

Mr K complains that, because Mortgage Express (ME) failed to take direct debits for his mortgage, his credit rating had suffered. Mr K also complains that ME's customer service has been poor, that it failed to do what it had promised to do in December 2009 and about delay in providing him with recordings of telephone conversations between himself and ME.

background

Mr K has a mortgage with ME. Between 2008 and 2009 the direct debit wasn't taken, which resulted in arrears and an adverse credit history. Mr K complained and ME provided a final response letter in December 2009 in which it provided a solution - it would remove charges, Mr K would pay the arrears and the letter sets out what would be reported in the credit file. The letter said that if Mr K was unhappy he could bring the complaint to us but must do so within six months of the date of the letter.

In 2012 Mr K complained that ME had failed to amend his credit reference profile. ME said it had done what it had said it would do, and gave Mr K a further final response letter. Mr K brought his complaint to us and there have since been further customer service issues, largely around the issue of ME's delay in providing recordings of telephone calls to Mr K.

An adjudicator considered the complaint and noted that ME had objected to our consideration of the complaint, saying that Mr K had brought it out of time. The adjudicator was satisfied that we couldn't consider anything covered by the December 2009 final response, but that we could look at the later issues – ME's failure to amend the credit file, and its poor customer service since December 2009. Mr K has also raised further issues about ME's failure to provide call recordings, and its overall poor customer service.

In a provisional decision I reached the following conclusions:

- We were unable to consider any of the issues covered in the December 2009 final response letter. That's because Mr K had not brought his complaint to us within six months of the date of that letter.
- In any event, complaints about the incorrect registration of data are more appropriate for consideration by the Office of the Information Commissioner, not the Financial Ombudsman Service.
- I was satisfied there had been poor customer service when Mr K complained again to ME that it had not put in place what it said it would do in December 2009. I asked ME to amend the credit file as it had said it would do in December 2009, and pay Mr K £250 compensation for distress and inconvenience.

ME accepted my provisional decision. Mr K has said that it is illogical that I can order ME to do what it said it would in December 2009, but that I will not look at the actual agreement behind it.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint – including Mr K's email sent to the adjudicator on 15 August 2013.

I've noted what Mr K has said and the various questions he would like me to put to ME. But the Financial Ombudsman Service is independent, and so it's not appropriate for me to put Mr K's questions to ME – the Financial Ombudsman Service does not represent the interests either of consumers or financial businesses.

I'm satisfied that the complaint about ME's failure to take direct debits was brought out of time. I'm also satisfied that there are no exceptional circumstances that might explain why the complaint was not brought within the six month time-limit.

Overall, I remain of the view that ME failed properly to address Mr K's concerns raised in 2012 that it had not amended his credit file, as it had said it would do in December 2009. Instead of addressing this issue, ME referred back to its December 2009 letter, without considering whether or not there was a new issue that it needed to address.

ME also failed to provide call recordings for a considerable period of time – either to Mr K or to ourselves. It also didn't properly address the customer service issues Mr K was raising in his email correspondence. All of the above served to increase Mr K's mistrust of ME.

my final decision

My final decision is as follows:

- I cannot look at Mr K's complaint about Mortgage Express's failure to take direct debits, or any of the other issues raised before December 2009, because the complaint was brought more than six months after the final response letter.
- If Mortgage Express has not done so, it must amend Mr K's credit file as it said it would do in the December 2009 letter.
- I uphold the complaint about poor customer service from 2012 onwards. In settlement Mortgage Express must pay Mr K £250 in full and final settlement.

Jan O'Leary
ombudsman