

## **The complaint**

Mrs O complains that Bank of Scotland plc trading as Birmingham Midshires has unfairly recorded a late payment for a buy-to-let mortgage on her credit file.

## **What happened**

Mrs O has a number of buy-to-let mortgages with Birmingham Midshires.

In March 2023, Mrs O told Birmingham Midshires that she would be unable to make the payment due that month in full as her tenants hadn't paid her rent. She agreed to make a partial payment so that the amount of the arrears was less than one monthly payment.

A further payment was due to the mortgage by 28 April 2023. But Mrs O did not make the payment until 2 May 2023. Birmingham Midshires recorded that the mortgage was in arrears in April.

Mrs O does not consider that Birmingham Midshires has treated her fairly. She said that she'd suffered a bereavement, the payment was only one working day late, she'd made all of her other payments on time and she'd proactively contacted Birmingham Midshires to tell it about the problems she'd had with her tenants. So Mrs O thinks Birmingham Midshires ought to have exercised some discretion and not recorded the adverse information on her credit file. She said it has affected her credit score and will make it difficult to remortgage, along with causing her anxiety and stress.

The investigator did not think the complaint should be upheld. Mrs O did not accept what the investigator said. She reiterated that not enough weight had been placed on her personal circumstances and that she is being penalised for circumstances that were outside her control.

## **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 was sorry to hear of the difficult time Mrs O has been through. And I don't doubt that it was a genuine oversight that she did not make the payment on time. But Birmingham Midshires is obliged to record true and accurate information on borrowers' credit files. Mrs O did not make the payment that was due to the mortgage in April 2023. So it was required to record that on her credit file. I consider that is a true and accurate reflection of how the account was managed.

I have thought carefully about what Mrs O has told us about her circumstances. But I'm afraid I don't think that would mean it was unfair or unreasonable for Birmingham Midshires to record the information it did on her credit file. I don't consider the fact Mrs O had made all her other payments on time or that she was only a few days late are relevant here. The information recorded was that the April payment wasn't made on time – that is accurate.

The fact that Mrs O's tenants hadn't paid the rent isn't relevant either. Mrs O was liable for the mortgage payment. So it was for her to make sure the payments were made even if the tenants did not pay.

That leaves whether Birmingham Midshires ought to have applied its discretion in view of Mrs O's personal circumstances and her bereavement. In my experience, there can often be unfortunate or unforeseen circumstances that lead to a borrower missing a payment. But the information recorded on the credit file is a factual record of how the mortgage was maintained. So it would not mean that Birmingham Midshires was not obliged to record the information it did.

Mrs O can place a notice of correction on her credit file if she wishes to explain the circumstances behind the missed payment. But I don't consider Birmingham Midshires has acted unfairly or unreasonably. So I can't tell it to remove the information it recorded.

### **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 Mrs O to accept or reject my decision before 24 April 2024.

Ken Rose  
**Ombudsman**