

The complaint

Mr K complains about some missed payment information Sky UK Limited have recorded with credit reference agencies.

What happened

In January 2022, Mr K took out a fixed sum loan agreement with Sky to get a brand new mobile telephone device. Under the agreement, Mr K made monthly payments using Direct Debits, to pay for the device. But, in January 2023 a payment was returned to Mr K's bank account, because the account didn't have sufficient funds to cover the cost of the Direct Debit.

Sky wrote to Mr K about the missed payment and they also changed Mr K's payment method from Direct Debit, to a manual payment. Mr K then repaid the arrears owed under the agreement in February 2023, after a second monthly payment was missed.

Mr K wrote to Sky and asked them not to pass on any missed payment information to credit reference agencies. He said the missed payment wasn't intentional and he had the funds available. Mr K explained to Sky that he hadn't completed a transfer from his savings account to his current account, before the Direct Debit was claimed.

Mr K also said Sky shouldn't have cancelled the Direct Debit and that their website says the Direct Debit would be claimed for a second time, ten days after an initial attempt. Sky didn't look to change the missed payment information and Mr K brought his complaint to us.

One of our investigators looked into Mr K's case and concluded that Sky hadn't treated Mr K fairly. He found that Sky shouldn't have cancelled the Direct Debit instruction and had they not done so, Mr K would have made the February 2023 payment. So, the investigator asked Sky to remove the missed payment information for February 2023.

Mr K accepted the investigator's findings, but Sky didn't. They said Mr K was aware of the two repayments he had missed and was given guidance on how he could make manual repayments.

As the complaint couldn't be resolved, Mr K's complaint was passed to me to make a decision.

I sent Mr K and Sky my provisional decision on this case, on 7 December 2023. I explained why I think the complaint should be upheld. A copy of my provisional findings is included below:

Mr K acquired the mobile telephone device under a fixed sum loan agreement. Our service is able to consider complaints relating to these sorts of regulated agreements.

The crux of Mr K's complaint started when the Direct Debit instruction, which took funds from Mr K's bank account to repay the fixed sum loan, was cancelled. Both Mr K and Sky agree there were insufficient funds in Mr K's bank account, when the Direct Debit was claimed in

January 2023. So, I don't think it's disputed that the Direct Debit was correctly returned unpaid.

During our investigation, Mr K provided a letter from his banker, which says Sky cancelled the Direct Debit. Sky haven't disagreed with Mr K's banker's comments. Against this background, I'm persuaded that Sky took the decision to cancel Mr K's chosen method of making the repayments. So, I've considered what Sky and Mr K did next, to decide if Mr K's credit file needs to be changed.

Mr K says he wasn't suffering any financial difficulties in January 2023, which led to him having insufficient funds in his bank account. He says he simply forgot to make a transfer, to cover the payments debiting his current account. I can see from Mr K's bank account statements, that he regularly transfers funds from his savings account.

Because of this, I don't think Sky could have assumed that Mr K was experiencing difficulties, or any exceptional circumstances. I can see from Sky's records that they called Mr K about the arrears. But, nothing in those calls point to any reason why Mr K would struggle to have the funds for future Direct Debits.

I've looked at the terms and conditions of Mr K's fixed sum loan, to see what they say in the event of an unpaid Direct Debit. While I can see the agreement told Mr K what would happen to recover any arrears, it doesn't specifically say that Sky will cancel a Direct Debit and change the repayment method.

Mr K says he looked on Sky's website, for guidance when he noticed his Direct Debit had been returned unpaid. He says Sky should have tried to claim the Direct Debit for a second time, and he transferred funds to his bank account in preparation for that.

I've looked at Sky's website and I can see it draws a distinction between mobile telephone device contracts and other services they offer. So, I think Mr K looked at the correct guidance available to him. Under the heading 'Direct Debit failed', the guidance on the website says:

"Was there enough money in your bank account?

We'll attempt a second collection 10 days from your original payment date. All you need to do is make sure there's enough money in your bank account. If there isn't enough for us to collect, you'll need to make a payment to clear your full balance using the links below."

I think the guidance on Sky's website is consistent with what Mr K has told us. Having considered all the evidence, I think there was an onus on Sky to have tried to collect the Direct Debit payment for a second time, after it was initially returned unpaid.

I've found that there wasn't an exceptional reason why Sky would have cancelled the Direct Debit. And I can see from Sky's records that they didn't try to collect the payment for a second time, in line with the guidance on their website. It then follows that I'm persuaded that Sky didn't treat Mr K fairly, when the Direct Debit was cancelled and where they didn't attempt a second claim for the repayment, later in January 2023.

Mr K has sent us a copy of his bank statements, covering the period from December 2022, until 10 February 2023. After looking at the balance of Mr K's bank account over this time, I can see that there were sufficient funds to cover the repayment to Sky, after the initial Direct Debit was returned unpaid in January 2023. I can also see that the account held enough funds to make the payment in February 2023.

On balance, I think it's likely Mr K's bank account would have met the Direct Debit claim, had Sky made a second attempt in January 2023.

I'm also persuaded that the repayment would have been met the following month, in February 2023. Additionally, Mr K went on to repay the arrears and then made the subsequent monthly repayments on time.

In all the circumstances, I think it's fair for Sky to change Mr K's credit file, to reflect what would have happened, had they followed their own guidance. I think it's reasonable for the missed payment from January 2023 to remain on Mr K's credit file. But, I think it's fair that Sky removes the February 2023 missed payment marker, from the information held with credit reference agencies, about Mr K's fixed sum loan agreement.

Sky reinstated the Direct Debit instruction, once Mr K had repaid the arrears. So, I don't think they need to take any further action in respect of that. But, Mr K has explained that he experienced distress when trying to sort out the cancelled Direct Debit with Sky. He says he was preparing for a new mortgage application and the missed payment information added worry, to what was already a challenging time.

I think there are too many aspects to a mortgage application, to draw any conclusions about the potential impact of Sky's actions here. But, I do agree that Sky caused Mr K distress and inconvenience and I think it's fair they make a payment to him to reflect that.

Having carefully considered everything, I think it's fair for Sky to pay Mr K £100 for the distress and inconvenience he experienced.

Sky responded to the provisional decision and accepted it. Mr K responded to the provisional decision and in summary, he said:

- After the second missed payment in February 2023, Sky passed the balance owed under the agreement to a debt collection agency. And that debt collection agency has also recorded adverse information.
- The missed payment information recorded by Sky, resulted in him taking a more expensive mortgage deal and that Sky should have offered a simpler method of payment, when he spoke to them about the missed payment.

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've found that Sky should have tried to collect the Direct Debit payment from Mr K's bank account, around ten days after the repayment was missed in January 2023. It then follows that any action Sky took when they cancelled the Direct Debit, should be put right. This means removing any adverse information recorded with credit reference agencies, in relation to the second missed payment in February 2023.

So, I think my findings extend to the removal of any adverse information which may have been recorded by the debt collection agency, chosen by Sky to pursue Mr K for repayment.

I've also thought about Mr K's concerns that he had to take out a more expensive mortgage deal. I recognise that adverse information on a credit file is likely to have an impact on a customer's borrowing prospects. But, I think it was always the case that Mr K's credit file would show a missed payment.

I say this because I still think the onus was on Mr K to have had the funds in his bank account, when the Direct Debit was initially claimed by Sky in January 2023. So, I think there were reasons, other than the missed payment information from February 2023, which may have had an impact on the mortgage deals available to Mr K. In all the circumstances, I don't think this means that Sky should look to compensate Mr K for any loss he says he suffered from taking out a particular deal with his mortgage lender.

In my review of Mr K's complaint, I also considered the telephone calls he had with Sky when they contacted him to talk about the missed payment. I think my findings address where Sky could have done things differently and what they should do to put things right.

Overall, I still think that even if Mr K was to have made a payment during the telephone call with Sky in February 2023, the missed payment information from January 2023 would remain. I accept Mr K's reason that he simply forgot to transfer funds to his bank account. But, I don't think I can fairly ask Sky to ignore that missed payment, or say they should now remove any information related to it.

Having thought about the additional comments Mr K has made, I still think it's fair for Sky to remove the missed payment information from February 2023, to resolve his complaint. I also think it's fair for Sky to make a payment of £100 to Mr K, for the distress and inconvenience he's experienced.

Putting things right

For these reasons, Sky UK Limited should:

- remove the missed payment information for February 2023, about the fixed sum loan agreement in Mr K's name, from the records held with credit reference agencies; and
- pay Mr K £100 for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint and require Sky UK Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 16 January 2024.

Sam Wedderburn
Ombudsman