

## **The complaint**

Mr R complains that Capital Home Loans Limited trading as CHL Mortgages (“CHL”) wrongly recorded mortgage arrears on his credit file. Mr R said this only happened because CHL wrongly applied previous overpayments, and he said it didn’t tell him about the arrears.

## **What happened**

Mr R said he’d had an interest only mortgage on his property since 2007. Mr R said that he understood he would always owe the same amount on this mortgage, but he could see the balance had reduced by about £2,000 since 2007. Mr R said there had sometimes been changes in the interest rate, which changed his contractual monthly payment (“CMP”) but he didn’t always change the monthly payment he sent to CHL. This meant he sometimes overpaid, but at other times, paid a little less than was owed. He said that overall, he’d paid more than he owed.

Mr R said he now wanted to remortgage his property with a different lender, but he wasn’t able to. He found out that CHL reported the underpayment to credit reference agencies (“CRA”) and it affected his credit score. Mr R said that CHL didn’t want him to move his loan elsewhere, which wasn’t fair.

Mr R said he’d asked CHL to amend his credit file, but it wouldn’t. So he wanted us to look into things for him.

CHL didn’t think it had done anything wrong. In late 2019, Mr R’s arrears were increasing. By the end of January 2020, his arrears were more than his CMP, so this was reported to CRAs. CHL said Mr R’s arrears were briefly below the CMP when he paid in late March 2020, but then he didn’t pay anything for April 2020, so his arrears were back over one month’s CMP. And he stayed over a month in arrears until July 2020.

CHL said these arrears had been reported correctly to CRAs. It said it’s required to report an accurate payment record on mortgage accounts to the CRAs. It can’t avoid this, or submit incorrect information. And it wouldn’t amend this credit record now. CHL said it was sorry it had taken a while to respond to Mr R’s complaint about this.

CHL then wrote again, after Mr R complained that he should be in credit because of his previous overpayments. CHL told Mr R that his previous overpayments weren’t building up credit on his mortgage account. If Mr R wasn’t in arrears when he made an overpayment, then any overpayment would then be applied to the capital balance, reducing the amount Mr R would owe at the end of his mortgage. CHL said it isn’t obliged to hold overpayments as a credit against any future missed payments. It said mortgages don’t work in the same way as savings accounts.

Our investigator didn’t think this complaint should be upheld. She said CHL had told Mr R when to make his payments, and when he was in arrears. It had also applied his overpayments in line with the terms of his mortgage. She said it had correctly reported these arrears to the CRAs, and she wouldn’t ask it to change this now.

Mr R disagreed. He repeated that he had an interest only mortgage, and said if he paid more, he was just paying his interest in advance. Mr R said there was a different procedure he had to follow if he wanted to pay off any of the capital balance he owed, and he'd never asked to do that.

Mr R also said he'd never been in arrears. He thought CHL had misused previous overpayments, and had done this just so he couldn't move his mortgage somewhere else. He still wanted his credit file to be amended.

Because no agreement was reached, this case came to me for a final decision.

### **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 reached the same overall conclusion on this complaint as our investigator.

Mr R said he has an interest only mortgage, so he thinks the amount of money he owes CHL should remain unchanged throughout the lifetime of the mortgage. Mr R says CHL isn't allowed to use any part of the money he pays each month towards the capital he owes it – even if he pays more than his CMP. He says that monthly payment is only to cover the interest on the loan, and there's a different procedure to go through if he wants to pay off some of the capital.

I've looked at the terms of Mr R's mortgage, and there's no requirement there that the full amount of each monthly payment he makes should be used to pay only the interest owing on this mortgage, as Mr R has suggested. CHL says if Mr R pays more than he owes each month, and he isn't in arrears, then any overpayment will be used to reduce the capital on the mortgage. That will in turn reduce the interest he's being charged.

I've read the terms of Mr R's mortgage, and I think what CHL has said about how it applies any money in excess of the CMP is consistent with those terms. And I also think that's a fair approach for CHL to take in this case. So I don't think Mr R could rely on any previous overpayments, to be carried forward and make up for more recent payments which are below the CMP.

I can see that over the lifetime of this mortgage, Mr R frequently made small overpayments, which have been applied against the capital owed. He has also spent some time paying less than the CMP each month, which means arrears accrued.

The negative marks on Mr R's credit file now happened because from August 2018, he was paying a little bit less each month than the CMP on this mortgage. So his arrears very slowly mounted up. Lenders won't report arrears until the amount owed is at least as much as one monthly payment, so these arrears weren't reported until February 2020.

Mr R was one month in arrears for January and February 2020. This was reported to CRAs for February and March 2020. (Credit files usually report a month behind, so if Mr R is in arrears in January, this will show on his credit file in February.) He made two payments in March, which brought his account into credit, meaning no arrears were reported in respect of that month. But then he made no payment for April. It seems likely that Mr R had intended the second payment in March to cover this period. But this meant his account was in arrears again during April, May and June, which was reported in May, June and July 2020.

In May, Mr R's CMP had been reduced, and his monthly payments remained the same. So his arrears began slowly reducing from May. And by July 2020, Mr R's arrears were less than his CMP, so CHL stopped reporting arrears.

I'm satisfied that the payments I can see on Mr R's account match the credit reporting history I can see.

Mr R said CHL never notified him of missed payments or arrears. But I've seen a number of arrears letters which were sent to Mr R. These were sent to an overseas address, which is the same address on the complaint response letters. I don't know whether these letters were received, but I can see that this is an address Mr R gave CHL in 2013.

Mr R told CHL more recently that he works away, and can't receive post, so he asked CHL to email him. But I can see Mr R said this wasn't the case at the time these letters were sent.

So I haven't seen anything to suggest CHL made a mistake in using this address for Mr R, or that it would be CHL's fault if these letters weren't received. And in June 2020, CHL also tried to call Mr R about the arrears on his account, but the phone number he'd given CHL wouldn't connect. So if Mr R didn't know about these arrears, I don't think this is CHL's fault.

So I don't think the arrears markers on Mr R's credit file are a mistake by CHL, or that it didn't try to warn him about these arrears. And I don't think CHL only did this so it could keep Mr R as a customer, stopping him moving his mortgage somewhere else. As CHL has explained, it has an obligation to provide true reporting of Mr R's repayments. And I think that's what it has done here. I know Mr R will be disappointed, but I don't think CHL has to amend his credit file now.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 August 2023.

Esther Absalom-Gough

**Ombudsman**