

The complaint

Mx E complains that TRANSUNION INTERNATIONAL UK LIMITED ('Transunion') didn't have the 'Mx' title option available for their customers to use when obtaining their statutory credit report online. Mx E has said this has caused them distress and frustration.

What happened

Mx E changed their name and title by deed poll on 13 January 2023. Mx E has said they subsequently realised they weren't able to obtain their statutory credit report from Transunion in either their previous name or their new name. The main reason for this was that they were unable to input their title of Mx into Transunion's online form for requesting their statutory credit report.

Mx E raised this issue with Transunion by email on 1 April 2023, explaining that they were unable to input their correct title. Mx E attached a scanned copy of their deed poll and mentioned that they were waiting for their name and title to be listed correctly on the electoral roll and with Yorkshire Water, but that this was being recorded correctly with other individual financial services providers.

Transunion acknowledged this email on 5 April 2023 and said they had forwarded it to their disputes team for a resolution. As Mx E had not received a response by 9 May 2023, they emailed Transunion again to chase for a response.

On 10 May 2023, Transunion responded, but didn't address the title issue Mx E had raised. Instead, after investigating, they confirmed only that there was an electoral roll entry for Mx E on their credit report in their new name, but with no title. Transunion advised Mx E to ensure their name and address were presented in the same format as their online account to enable them to see electoral roll information. Transunion ended their response by saying there was no further action necessary.

Mx E replied on the same day and reiterated the source of their concern, which was that they weren't able to input their Mx title when requesting their statutory credit report online, and – as such – their entry could not correctly reflect the title they have on their driving licence and utility bills.

On 13 May 2023, Mx E referred their complaint to the Financial Ombudsman Service, although they hadn't yet logged the issue as a formal complaint with Transunion. On 15 May 2023, Transunion replied to Mx E's previous email (dated 10 May 2023) and explained they did not currently have Mx available as a title option. Mx E replied the same day and said they wanted to log the issue as a formal complaint, which was acknowledged by Transunion the same day.

Transunion issued their final response on 23 June 2023, saying they did not uphold the complaint. They said they would like to be able to offer Mx as a title option but it's not something they could currently implement, although no reasons for being unable to do so were provided. Transunion said they were always assessing their systems and so it was

something they hoped to be able to offer in the future. However, they didn't believe they had made any error.

Mx E remained unhappy and the complaint was reviewed by one of our Investigators. The Investigator upheld the complaint as they didn't think it was fair or reasonable for Transunion not to offer Mx as a title option. They also didn't think this was in line with guidance from the Information Commissioner's Office (ICO), as under Principle D of that guidance (data accuracy), Transunion are required to correct data within thirty days.

Our Investigator recommended that Transunion pay Mx E £350 for the distress and inconvenience caused. In addition, they recommended that Transunion take significant steps towards adding Mx as a title option within twelve months. As Mx E could still see their credit file data and none of the core financial data was incorrect, our Investigator did not recommend any further action for Transunion on this point.

Transunion disagreed, and made the following points:

- They said it was not within Transunion's remit to change or amend any personal details on financial accounts, so they couldn't amend titles, names, addresses or dates of birth, for example. They said consumers need to address issues of this nature with individual lenders.
- They said that while the Mx title is becoming more widely recognised, it's not a legally protected title under the Gender Recognition Act (GRA) 2004. So, adding the Mx title wasn't something they were legally obliged to do. They also said that in their opinion, the title is viewed as a courtesy title only and many other UK lenders are not using it.
- Transunion said they weren't aware of Mx E having a Gender Recognition Certificate (GRC) and, therefore, their internal process relating to GRCs wasn't applicable.
- Lastly, they said an individual's title has no bearing on their credit report and so would not affect Mx E's ability to gain access to credit.

Our Investigator responded and explained that Mx E alone has the right to choose what their title is and said it's not fair or reasonable for Transunion to refuse to make it available or impose another title on them – even if another financial entity or business has previously done so. So, our Investigator didn't agree that the Mx title option fell outside of Transunion's remit when it came updating their systems.

Our Investigator also explained that no honorific titles are legally protected, and yet Transunion offers other titles (such as Mr and Mrs) regardless. Given this, our Investigator questioned why Transunion could not respect Mx E's title, in the same way as they would for any other customer.

In addition, our Investigator pointed out that it is irrelevant whether or not Mx E has a GRC, as a consumer isn't required to have a GRC in order for a business to respect their preferred title and offer it as an option.

Lastly, our Investigator said that they didn't find it relevant to the complaint that Mx E's title has no bearing on them being able to access credit. Our Investigator said Mx E's request was valid, and that not being able to use their preferred title when requesting their statutory credit report online, is an upsetting and unpleasant experience which Mx E should not have to go through simply because they identify as non-binary.

Transunion reviewed our Investigator's explanation, but still didn't agree with the outcome reached. Nevertheless, they said they had discussed the matter with their legal team and confirmed they were now implementing the title option of Mx onto their system and this

would be in place “*imminently*”. I understand that Transunion’s systems were updated in August 2023 to include the Mx title option. However, Transunion said that this step was being taken “*as a courtesy only*”.

The Investigator said they were pleased that this was now being done, but reiterated their position that they felt the compensation recommended was fair. Transunion then requested an Ombudsman to review the level of compensation awarded, which they felt was excessive. They reiterated in this correspondence that the implementation of the Mx title was “*being done as a courtesy*”.

As the two parties were unable to reach agreement at view stage, the complaint has been referred to me to make a final decision on the merits of the complaint.

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.

If I haven’t commented on, or referred to, something that either party has said, this doesn’t mean I haven’t considered it.

Rather, that I’ve focused here on addressing what I consider to be the key issues in deciding this complaint and explaining the reasons for reaching my decision.

I’ve also taken into account relevant law and regulations, regulator’s rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Businesses (‘PRIN’) and the Conduct of Business Sourcebook (‘COBS’).

Having taken all of the above into account, I’ve decided to uphold the complaint for largely the same reasons as those given by the Investigator. I’ll set out my findings below.

Our Service can’t make a specific finding as to whether a business has breached the Equality Act 2010, or discriminated against a consumer under that act, as this is something only a court of law could decide. However, as noted above, we do take the law into account, including what we think a court would likely decide. It’s also important to emphasise that we don’t base our decisions purely on whether a business is legally required to do something. Our Service makes decisions on the basis of what we consider to be fair and reasonable in the individual circumstances of the complaint.

I don’t agree that it would be fair or reasonable for Mx E to be treated differently than any other customer purely on the basis of their gender identity. So, that is my starting point – whether Mx E was being treated differently by Transunion than a cisgender customer would have been.

From what I’ve seen, Transunion’s other customers who use titles such as Mr, Miss, Mrs and so on, are able to use their correct title when requesting their statutory credit report online from Transunion. Mx E was not able to use their correct title when trying to do the same thing. Transunion don’t dispute this.

As Mx E was not able to use their correct title, they were therefore being treated differently than a cisgender customer would have been in the same circumstances, purely as a result of their non-binary gender identity. This is not acceptable. Furthermore, I think it was (or should’ve been) foreseeable to Transunion that this was potentially offensive and distressing to Mx E. So, I don’t think Transunion have acted fairly or reasonably here.

I've considered the specific points Transunion raised in response to our Investigator's view. Firstly, Transunion have said they can't amend the details held by other businesses. This is true, and Mx E will need to approach individual lenders and any other parties directly should they wish to request amendments to their information. However, as I would expect, it seems Transunion are able to update their own system, based on the fact that they have now done so.

Secondly, Transunion have pointed out that Mx is not a legally protected title under the GRA 2004. However, as our Investigator has pointed out, the GRA doesn't offer legal protection for any titles. Nor does the GRA (or any other legislation) prevent businesses from using the Mx title. So, I don't think that this is a relevant consideration. Instead, the key point – as explained above – is that Mx E was being treated unfairly due to not being able to use their preferred title to request their statutory credit report online from Transunion, despite the fact that other, cisgender customers were able to do so.

Thirdly, as our Investigator has already explained, it's irrelevant whether or not Mx E has a GRC, as businesses are able to respect and use customers' preferred titles in any case, and should do so. Transunion have said they were unable to assist Mx E in their request as, in not having a GRC, Mx E wasn't covered by Transunion's internal process relating to GRCs. However, if Transunion's internal processes restrict them to offering support to a limited group, rather than allowing them to assist all their transgender and non-binary customers, then they may wish to review whether those processes are fit for purpose.

Lastly, Transunion have said Mx E's ability to access credit has not been impacted. Again, this isn't relevant to the complaint at hand. Had Mx E's credit access been impacted then this might have been an aggravating factor to their complaint, but the fact this hasn't occurred does not excuse the other failings in this case.

In addition to the points Transunion raised in response to our Investigator's view, I've also considered their comments at the point of requesting an Ombudsman's decision; namely that they were implementing the Mx title option for consumers, but that this was "*being done as a courtesy*".

I'm unclear what is meant by this, as all titles are a courtesy, and are intended as a mark of respect toward the individual being addressed or referred to. It's unclear why Transunion feels it necessary to make this comment in relation to the Mx title specifically. In any case, Transunion offers their cisgender customers the courtesy of being able to use their appropriate titles, and I'm pleased to hear they have now updated their system to offer the same courtesy to customers using the Mx title.

Transunion also asked for an Ombudsman to look at this case on the basis that the £350 compensation awarded by our Investigator was excessive. Having considered everything that has occurred, I think that Mx E should be compensated for the distress and inconvenience suffered due to Transunion's actions in this case.

Mx E has told us that the events surrounding the complaint made them feel they had to justify their non-binary identity and go through a process of "*proving I exist*", which they found stressful and upsetting. And, Mx E continued to experience this upset until Transunion agreed to update their system in August 2023. This could've been avoided had Transunion updated their systems more swiftly, which it's clear from their subsequent action was possible.

Having listened to Mx E's account, I'm persuaded that they experienced both stress and upset as a result of this matter. I want to be clear to both parties that it's not part of our role

to punish firms and this isn't the purpose of a compensation award. Taking everything into account, I don't therefore think a higher award than the Investigator has already recommended is warranted here. But I do agree Transunion should pay Mx E £350 compensation in order to fairly recognise the impact of their actions.

My final decision

I uphold this complaint and require TRANSUNION INTERNATIONAL UK LIMITED to pay Mx E £350 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mx E to accept or reject my decision before 13 March 2024.

Fiona Mallinson
Ombudsman