

## The complaint

Mr F complains that Madison CF UK Limited, trading as 118 118 Money, wrongly entered a 'missed payment' marker on his credit report for January 2021.

## What happened

Mr F's complaint stems from Mr F's view that Madison has misapplied the FCA Guidances in relation to assisting customers who find themselves unable to pay or in difficulty paying due to coronavirus.

The agreement Mr F signed was for an 18 month term for a loan of £1,000 repayable at £72.68 a month and that agreement stipulated the repayments started on 1 December 2020 and were to be taken by Continuous Payment Authority (CPA). The agreement clarified that if the scheduled payment date landed on a bank holiday it would be taken on the first working day after that date. Hence the reason that the January 2021 payment, to which this decision relates, was due to have been taken on 4 January 2021 as Friday 1 January 2021 had been the New Year bank holiday.

The 4 January 2021 payment failed and I have seen records of that. Immediately, and in a pro-active manner, Mr F emailed Madison on 5 January 2021 explaining the reasons why and apologising.

I state here that I am aware that Mr F had complained before on 8 January 2021 and that complaint related to a constant request to call Madison's operative when he suffered from a condition that made it not easy to use the telephone. And a second element to that 8 January 2021 complaint was about dealing with the arrears. Those were the subject of a final response letter (FRL) dated 15 January 2021 and is not the complaint I am dealing with here. But the information Madison has provided about it has been valuable as background to this complaint.

Mr F's second complaint was articulated in his email dated 9 February 2021 to Madison after a repayment plan had been set up and actioned and after he had noticed that the 4 January 2021 payment had been marked on his credit file as a 'missed payment'.

He received a swift final response (FRL) which was dated 18 February 2021 in which Madison said that following the first complaint, a repayment plan had been set up and he'd been informed in the earlier FRL (January 2021 one) that *'Please also be aware that during the time your account is in arrears, this may have a negative effect on your credit file.'*

And Madison also said in that FRL - as Mr F had a repayment plan not a payment holiday then it was obliged to report a true reflection of the account operation to the credit file agency.

Mr F was not content and referred his complaint to the Financial Ombudsman Service on 18 February 2021 giving a detailed account in his complaint form. He explained that his fourteen day inability to work in December 2020 was Covid related and so his salary was much lower than usual. And he said:

*As I clearly informed them my reason for missing this payment was Covid-19 related, one expected that as result of doing the right [sic] I wouldn't or shouldn't suffer. What 118 118 actually did though is mark my credit file with a missed payment marker, which has affected my credit score. FCA advice on your website stipulates as guidance that Covid-19 related issues should not be reported as 'Missed payments'.*

Mr F said that it had affected his credit score and he wanted financial compensation.

Since then, Mr F in October 2021 has raised additional points of complaint against Madison. I make it clear that as these have not been passed on to Madison to investigate, it is unaware and so will have to be dealt with as a separate complaint. Those additional complaint points are not dealt with in this decision.

One of our adjudicators looked at the February 2021 complaint and wrote to both parties to give his view. He had reviewed the Payment Deferral Guidance by the FCA and thought that Mr F should have been given the option of a payment holiday or a repayment plan, Madison ought to have made him aware of the detrimental effects of each so Mr F could make an informed decision.

Our adjudicator thought that if Madison had done this, it was likely that Mr F would have opted to take a payment holiday. So, our adjudicator did not think Madison had done the right thing by placing Mr F on a repayment plan. The proposed resolution was to amend the credit file by removing reference to a missed payment for January 2021. Our adjudicator did not award any financial compensation to Mr F.

Mr F was pleased with our adjudicator's view and said he'd wait for the outcome after Madison had responded. Mr F made no comment about our adjudicator not awarding him compensation. This is dealt with later in my decision.

Madison disagreed. It said that Mr F approached it about his arrears. Madison did not think a payment holiday would be appropriate as Mr F had told Madison that his future ability to pay was not likely to be compromised. It cited the FCA guidance on payment holidays (deferrals).

Madison has said that Mr F had been content to accept the second option in the list of the ones Madison offered to him, and that option was - a payment plan where the arrears were split up over several months and repaid on top of the scheduled monthly repayments. So it did not think it had done anything wrong.

The unresolved complaint was passed to me to decide.

### **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.

Various Guidances for regulated firms to assist customers affected in their ability to pay due to coronavirus were published by the FCA from April 2020 and the applicable Guide depended on the type of loan or credit taken. In Mr F's case, he took an 18 month personal loan from November 2020. It would not fall into the definition of high cost short term credit (HCSTC) as the loan was for an 18 month term. And so, it does fit with the Guidances specifically for personal loans.

I have reviewed those. The first Guidance for these types of personal loans published in April 2020 was updated in July 2020 and 'expired' on 31 October 2020. A new Guidance

replaced it commencing from 25 November 2020 and it is this which appears to have been relevant at the time Mr F approached Madison in January 2021. The full title is '*Finalised guidance Personal loans and coronavirus: Payment Deferral Guidance*' published November 2020. I'll refer to it as the 'Payment Deferral Guidance' and the reference to paragraph numbers below are those in that Guidance.

The earlier Guidance gave provision for the lender to give payment deferrals to customers. And the later Payment Deferral Guidance which I have indicated appears to apply to Mr F's loan, was to extend the availability of payment deferrals to 'eligible' customers (paragraphs 1.6 and 1.7). And paragraph 1.8 states:

*Eligible customers seeking a first payment deferral, and those eligible customers who have previously accessed payment deferrals that totalled less than 6 months under this guidance, can seek a new payment deferral up to 31 March 2021.*

A 'payment deferral' is defined

*'Payment deferral' refers to a situation, on or after 9 April 2020, where a firm permits under this guidance (or in anticipation of the original guidance coming into force) the customer to make no payments or reduced payments under their regulated credit agreement for a specified period without considering them to be in arrears; • 'Full payment deferral' means a payment deferral where the firm permits the customer to make no payments; and • 'Partial payment deferral' means a payment deferral where the firm permits the customer to make reduced payments of any amount.'*

A different Guidance applies '*The FCA's guidance "Consumer credit and Coronavirus: Tailored Support Guidance" ("the Tailored Support Guidance")*' where the customer is not receiving a payment deferral which may include where the customer is not, or no longer, eligible for a payment deferral.

However, 1.14 of the Payment Deferral Guidance makes it clear that

*'Where a customer indicates that they may be experiencing, or they reasonably expect to experience, payment difficulties as a result of circumstances relating to coronavirus, a firm should offer any support the customer is eligible for under this guidance before providing support under the Tailored Support Guidance.'*

So, I am satisfied that this Payment Deferral Guidance published in November 2020 was the first one Madison should have considered and applied to Mr F's situation before offering anything else. And I don't think it did that.

I consider the Payment deferral Guidance to have been applicable to Mr F's situation and that he was eligible for it, having not received such a deferral before, and his loan with Madison had commenced in November 2020. Paragraph 1.17 seems entirely on point with Mr F's circumstances at the time he approached them in January 2021.

Paragraph 3.3 of the Payment Deferral Guidance lists the options which the lender can do where the payment deferral sought by the customer is not in the customer's interest and these were:

*give a payment deferral of an amount different to what the customer indicated they can afford; • give a payment deferral of less than 3 monthly payments (or the maximum permitted); or • treat the customer in accordance with the Tailored Support Guidance.*

Looking at Mr F's circumstances, he approached Madison by email on the first available working day following the failed payment after the Christmas and New Year holidays in January 2021, having experienced a 14 day isolation period due to a coronavirus contact. Mr F said he had not earned any money during that time and was not able to afford the 4 January 2021 instalment. Mr F included in that email

*'With this in mind I am hopeful that you will be understanding of my circumstances and together we come up with a solution in regards to this missed payment.'*

It seems that Mr F did not send to Madison a budget document for it to assess Mr F's financial situation which likely restricted what Madison could be satisfied was appropriate to offer Mr F. And I have seen a note relating to Mr F's account dated 12 January 2021 which said:

*10/01/2021 Email out advising of options*

*11/01/2021 Email in confirming wants repayment plan.*

*12/01/2021 Email out asking to complete I&E explained have duty of care*

*12/01/2021 Email in does not want to do I&E – suggested 1m payment freeze*

*12/01/2021 Email in does not want to do I&E – suggested 1m payment freeze or split over 4m.*

I requested copies of those emails to provide me background information and I note that the final email on 12 January 2021 was from Mr F and it included the two routes he had in mind:

*'I'm not looking to change my repayments, nothing financially has changed long term in regards to my income. I'm just asking for a payment freeze for the one month I missed, to restart payments (beginning of Feb) or as your own suggestion divide the missed payment over 4 months alongside my normal payments.'*

Madison has told us that it did not think a payment holiday would be appropriate as Mr F had told Madison that his future ability to pay was not likely to be compromised. And I have seen that Mr F has indicated that he was back at work and he did not feel that his future financial situation as a concern. And so, in that respect I understand why Madison offered what it did. Hence the reason I have decided to uphold Mr F's complaint in part. And I explain here.

I think that a combination of what Mr F was suggesting – a payment freeze plus the 'catch-up' instalment idea, was the best option. And I think Madison missed this.

The arrangement agreed to was for Mr F to pay more than the usual instalment sums of £72.89 and instead pay £90.85 a month for four months to 'catch -up'. But here the idea of there being any payment deferral – even for the 4 January 2021 failed payment – does not appear to have been contemplated.

The FRL listed the four instalments as follows:

*Repayment date – Amount*

*01/02/2021 £90.85*

*01/03/2021 £90.85*

*01/04/2021 £90.85*

*04/05/2021 £90.85*

In relation to Mr F's credit file, this sentence (below) was included in the FRL and also in the confirmation of payment arrangement email dated 19 January 2021 : *'Please also be aware that during the time your account is in arrears, this may have a negative effect on your credit*

*file*'. And there is no mention of what may be done with the failed payment that had just passed.

The FRL resolution was accepted by Mr F and that FRL related to the first complaint. And I have noted that the FRL had two resolutions in it – one was compensation for an issue relating to the telephone requests and the other was for the arrears situation. And so, accepting the FRL meant Mr F accepted both.

Mr F said:

*'Secondly I accept your repayment proposal as outlined below in your email. I can confirm this is acceptable and affordable to me. Please reply to this email for confirmation you have put both the above into place.'*

And I think this dealt with the arrears going forward but did not consider the January 2021 failed payment issue.

Paragraph 5.12 of the Payment Deferral Guidance says

*'The payment deferrals described here should be regarded as being offered in exceptional circumstances outside of the customer's control. In accordance with the relevant Coronavirus Data Reporting Guidance published by the Credit Reference Agencies (CRAs) in consultation with SCOR, firms should not report a worsening status on the customer's credit file during any payment deferral period.'*

I've considered all of this and thought about the FCA Guidelines carefully, and I have noted that the chronology of events and the New Year 2020/21 bank holidays. I don't think Mr F would have had an opportunity to speak to Madison much before – if at all before – the failed payment which was on 4 January 2021.

I note Mr F's pro-active email in which he approached Madison to find a solution for the 'missed payment'. And I am aware that the term 'missed payment' is used in virtually all the correspondence and so it was treated as such. But I don't think it had to be treated as such.

I think that the situation in December 2020 and January 2021 was unique and Covid related and so I think that the *Payment Deferral Guidance* published November 2020 was relevant to Mr F's situation and ought to have been applied.

The repayment schedule was to deal with the arrears, set out in the FRL dated January 2021 and Mr F accepted it. But I think that it would have been fair and reasonable and applicable to treat Mr F's failed payment in January 2021 as the equivalent of a deferred payment, or a payment holiday, and so it ought not to have been entered onto his credit file in an adverse way in accordance with the Payment Deferral Guidance on these types of Covid related deferrals.

And I appreciate that a deferred payment may not be usually applied retrospectively as Mr F contacted Madison on 5 January 2021 after the failed payment, but in these particular circumstances relating to the December 2020 Covid isolation plus the Christmas and New Year holiday period then I do not think it was likely Mr F was easily able to contact Madison before 4 January 2021.

And even if I am wrong on this, which I do not think I am, I think it would have been the fair and reasonable thing to have done to have not reported this to his credit file as a missed payment. And one of the reasons I come to this view is that in the email dated 10 January 2021 from Madison to Mr F it said this:

*This option is advisable instead of leaving your account in arrears and no arrangements at all, because this may have a negative impact on your credit file, which we are trying to avoid,*

And reading the email carefully I think that Madison's reference to 'This option' was not directed at one particular choice (listed immediately above in that email) but was indicating to Mr F that by making arrangements to cover the arrears at that time and not delaying meant that a negative credit file impact would be avoided. So, Mr F chose one of the options to manage the arrears and the FRL following finalised the arrangements for four larger payments to 'catch-up' after which the repayments would revert to 'normal'.

But I think that it was easy to interpret the 10 January 2021 email from Madison to mean that the January 2021 failed payment would not necessarily be reported in an adverse way on his credit file. I just don't think it was clear enough as to what Madison was going to do about the failed payment.

This, plus the fact that as I have outlined above I think that it was open to Madison to apply the Covid Payment Deferral Guidance and treat it as a payment holiday would have been the fair and reasonable thing to do. Especially as Mr F was the party who prompted and promoted the start of the conversation to iron out the issue surrounding the failed payment.

I note from the screenshots of the 2021 credit file for Mr F that the four instalments where Mr F overpaid to catch up with his arrears were not subject to any adverse markers on his credit file and I think that was the right thing for Madison to have done. And I would not expect that to alter going forward.

#### *Compensation element*

Turning to the impact on Mr F's credit file, as Mr F did not appear to query the lack of compensation element in our adjudicator's view in October 2021, then I can treat that part of Mr F's complaint for the January 2021 credit file issue as resolved. But for completeness I have dealt with the issue of compensation here.

Mr F has sent us two screenshots recently for January and February 2021 and it does look to me as though his credit file score had reduced. However, I also note that

- both screenshots say that his score was 'stable'
- I have not received a full record of Mr F's credit file and so I cannot be sure that this 'missed payment' marker did affect the credit score as the score may have been affected by other entries as well
- and I have no evidence to support the fact that Mr F's desire for financial compensation is justified or warranted as I have no evidence of any loss that the reduced score had on his finances at the time

So, I do think Mr F's credit score should be corrected to remove the adverse January 2021 entry but I think that is a fair and reasonable resolution for both parties.

And as I have explained in the 'what happened' part of this decision, any additional adverse credit file entries are not addressed in this decision as they are not part of this complaint.

#### **Putting things right**

I've arrived at the same outcome as that of our adjudicator but I have given more details as

to why I have arrived at that.

Madison CF UK Limited, trading as 118 118 Money, should amend Mr F's credit file to remove the January 2021 adverse entry.

### **My final decision**

My final decision is that I uphold Mr F's complaint in part and Madison CF UK Limited, trading as 118 118 Money, should do as I have said in the 'putting things right' part of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 July 2022.

Rachael Williams  
**Ombudsman**