

## **The complaint**

Ms W complains that Bank of Ireland (UK) Plc reported a mortgage application she made to one of the fraud prevention databases, CIFAS.

## **What happened**

Ms W applied for a buy to let mortgage with Bol, via a broker, in 2017. She, or the broker on her behalf, completed an application form and submitted it to Bol.

Bol then considered the application. It asked Ms W for evidence of savings to show that she had the deposit needed to buy the property. Ms W provided bank statements which were not in her own name.

Bol refused the application. It also reported Ms W to the fraud prevention database. Ms W discussed the matter some time later when her bank asked her to close her business bank account. She complained.

Our investigator didn't think Bol had acted fairly in making the report to the database, and said Bol should remove it, and pay £250 compensation. Bol didn't agree, and asked for an ombudsman to review 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.

The CIFAS database sets out principles for its members, which are publicly available on its website. One of the principles sets out the standard required for making a report. The relevant sections set out the standard of proof to be applied:

*“That there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted;*

*That the evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the Subject to the police.”*

In this case, Bol has referred to the Fraud Act. There are various offences included in that Act – but a common theme is dishonesty, and an intention to gain financially from that dishonesty. And I've taken that into account in deciding whether I think Bol acted fairly.

Bol's concerns relate to information provided in and with the application. It said the application form indicated that the mortgage repayments were to come from an account not in Ms W's name. And when it asked for proof of deposit, she gave it statements in the name of the same “unrelated third party”.

Ms W told our investigator that the third party was her husband. They regarded their assets,

and would regard this property, as being jointly held. And when this mortgage was refused, he later bought the property in his name using a mortgage from another lender – though they manage it together and consider it a joint asset.

Bol isn't required to lend, and has a broad commercial discretion in deciding whether to do so. It was entitled to refuse the mortgage application and there's nothing unfair about that.

But making a report to the database requires a higher threshold. I've noted that Ms W made no attempt to conceal the source of the deposit or pass it off as her own funds. She provided her husband's bank statements when requested, and stated on the face of the application that repayments would come from his account. Bol didn't ask her about this, or carry out any further investigation.

I'm not persuaded, on the evidence I've seen, that Bol has shown that it could fairly consider there to be evidence of fraud or criminality to the standard required by the database. And it follows that I don't think the report was fair, and the marker should be removed now.

### **Putting things right**

I'm satisfied the presence of the marker caused Ms W trouble and upset. She's explained the impact on her, including the closure of her business account. I don't have direct evidence that the marker was the reason for the closure. But I do think Ms W has been distressed by the discovery of the marker, and I'm satisfied £250 is fair compensation for that.

### **My final decision**

For the reasons I've given, my final decision is that I uphold this complaint and direct Bank of Ireland (UK) Plc to:

- Remove any record of this application from fraud prevention databases; and
- Pay Ms W £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 23 March 2021.

Simon Pugh  
**Ombudsman**