

The complaint

Mr B complained because Startline Motor Finance Ltd recorded a fraud marker against his name.

What happened

In May 2019, Mr B complained to Startline. He'd discovered that Startline had recorded a marker against his name with the fraud prevention agency CIFAS.

In its final response to Mr B's complaint, Startline refused to remove the marker. It said that between 3 September 2016 and 15 March 2019 it had received 14 applications in Mr B's name, from various dealers.

Mr B wasn't satisfied and complained to this service. He said Startline had told him that he'd applied for car finance in August, which wasn't true because he'd obtained car finance in July. Mr B told us that Startline had said there was a discrepancy about his employer. Mr B said the place where he worked was in the same building as another organisation. So he thought that whoever input the application had just gone by the address when they'd input the postcode.

Mr B told our investigator that he hadn't been aware of the 14 applications which Startline had mentioned. He said he had made applications for car finance in the past, but not to that extent. The investigator explained that the guidelines set by CIFAS are that there have to be reasonable grounds for believing a fraud or financial crime has been committed or attempted. He didn't see what fraud or financial crime Startline was saying Mr B had committed.

So the investigator upheld Mr B's complaint. He said Startline should remove the CIFAS marker and any adverse information reported.

Startline didn't agree. It said that it had provided the full case file to CIFAS and unless we'd contacted them, we couldn't claim to have considered the evidence. Startline said that the information was of a sensitive nature so it hadn't been provided to this service. Startling said that CIFAS had agreed the marker should remain, so it failed to see what jurisdiction this service has to state otherwise.

The investigator explained to Startline that CIFAS is not a dispute resolution service with statutory powers to investigate complaints between regulated firms and consumers. He told Startline where to find details of our jurisdiction and powers, and confirmed that we can ask for CIFAS markers to be removed if we deem it to be fair and reasonable. He pointed out that Startline had been asked for its file. He explained that if Startline didn't provide more information, Mr B's complaint would be referred to an ombudsman just on the basis of the information already submitted.

My provisional findings

I issued a provisional decision on this complaint. Before doing so, I considered all the available evidence and arguments to decide what would be fair and reasonable in the circumstances of this complaint.

Evidence

I asked for more information from both sides. I explained to Startline that I would need to see its information about the 14 applications which it said Mr B had made. I said that I was very open and willing to look at any evidence Startline had about Mr B's applications, but without any such evidence my decision was unlikely to be different from that of the investigator. Startline provided a summary sheet of the 14 applications, and copies of the applications it had received from various introducers.

I also asked Mr B for full details of his employment from the date of the first application onwards, 3 September 2016. Mr B provided this information.

I then looked carefully at the details of all 14 applications. They showed identical information for Mr B's name, marital status and date of birth.

But there were other areas where the applications differed from each other. As Startline told Mr B, these differences mainly related to his employment: where he worked, what he did, and how long he'd been there.

As I've set out above, Mr B told this service that the place where he worked was in the same building as another organisation. So he thought that whoever input the application had just gone by the address when they'd input the postcode. This could explain one of the anomalies, but not all of them.

Looking at the other anomalies, Mr B also told us that he worked through a contractor umbrella company, and he sent us details of two contracts for part of the relevant period. One contract was for 6 months and the other for 5 months. This explained why some of the applications were in the name of the contractor umbrella company and some in the name of the company where he actually worked.

But there were still other anomalies. There were several finance applications which showed a different employer altogether. There were also significant differences in the pay figures – up to around £1,400 a month net pay difference.

And I've also seen that every car finance application listed Mr B's employment as "Permanent" in the box headed "Permanent/ contract". From the evidence Mr B supplied in response to my request for more information, that wasn't correct.

There were other anomalies too: for example in the question about "tenure" relating to where Mr B was living, and some of the dates differed significantly too.

So, taking all these factors into account, I could understand why Startline had concerns about Mr B's applications.

CIFAS marker

CIFAS is a fraud prevention agency. It maintains a large database, in order to protect financial organisations and their customers against fraud. Organisations which belong to CIFAS have a responsibility to report suspicious incidents. As the CIFAS website sets out, the criteria for a marker on the database include:

- There are reasonable grounds to believe that a fraud or relevant conduct has been committed or attempted;
- The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police or a relevant regulatory body.

In the light of this, I looked at the evidence from the 14 car finance applications which were made to Startline. Some of the anomalies between them could be explained, as I've set out above. But there were others where the detail on the application was too different to be explained by small factors such as a dealer picking the wrong employer from a postcode list; or small differences in monthly pay; or slight differences in remembering dates.

I also bore in mind the fact that Mr B's employment was categorised as permanent, which might be expected to be more likely to lead to a successful application for credit. But the evidence Mr B has provided clearly shows it was a contract.

So I concluded that Startline had sufficient evidence to record a CIFAS marker against Mr B's name, and I said that my provisional decision, subject to any further evidence I received in response, was that I did not intend to uphold this complaint.

responses to my provisional decision

Startline accepted the provisional decision.

Mr B didn't agree with my provisional decision, and sent a detailed letter about it. His points included:

- The contracts which he'd previously sent us, showing 6 months and 5 months, showed what they did because of his Visa status. Mr B said his Visa had expired. He said he'd been in a permanent contract of employment at the time, but as a result of the Visa issues, his employer had told him he'd have to work for them through a third party organisation. That third party organisation only ever issued 6 month contracts. Mr B sent a copy of the UK Visas and Immigration document showing he had the right to work in the UK between April and October 2017.
- Mr B had asked Startline for a data subject access request, and none of those documents had shown any income or outgoing information. Mr B said he understood that it was a legal requirement for all information to be sent to someone requesting a data subject access request;
- Mr B said he'd never applied for finance directly through Startline and he hadn't made any application in August 2018. He explained that by then he'd had his new car for a month, so wouldn't have made an application then.

In summary, Mr B said that he should be given the benefit of the doubt. He said the main reason why the marker had been added to his record was because of the discrepancies about the company he worked for. Mr B said he'd been able to clarify this by explaining what could have caused it.

Mr B explained that the CIFAS marker had put him in a very difficult situation because it meant he couldn't work in his normal sector. His mental stability had been affected. Mr B said that Startline hadn't mentioned anything about permanent or temporary roles, and he hadn't given any forged documents. Mr B said that third parties always run checks without the customer's consent for marketing purposes, and he didn't even know some of the

branches. Nor had he signed any applications, and there was no evidence by photo, video or phone to show that he made the applications.

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'm sorry to hear that Mr B feels his health and mental stability has been affected by this.

I've looked in detail at Mr B's points responding to the provisional decision.

Contractor status

I recognise that Mr B has explained why the documents he'd previously submitted only show contracts of 6 months or less - because his Visa had expired and the government immigration service only confirmed the right to work, six months at a time.

But if Mr B's Visa had expired and he only had Visa and Immigration confirmation of his right to work in the UK for six months at a time, his work contracts couldn't be permanent. But every car finance application to Startline records his employment as "*Permanent.*"

Data subject access request

Mr B has said that in his data subject access request, he didn't receive information from Startline showing income. The information Startline sent to us does show information it received about Mr B's income. It's not for this service to decide whether Startline has complied with its obligations to Mr B under the relevant regulations. That's the role of the Information Commissioner's Office. But I've relied on all the information provided by both Mr B and Startline, to reach a decision on what would be fair and reasonable in all the circumstances.

August 2018 application

One of the applications which Startline received was dated August 2018. Mr B has said that he bought a car in July 2018, so he wouldn't have needed to do this. He sent a two page document which is a finance information sheet, and a page showing what monthly repayments would be on a loan of just over £15,000. But this document doesn't show that Mr B did in fact take out that car loan, nor is it dated. So I can't agree that this is proof that Mr B definitely wouldn't have applied to one of Startline's dealers in August 2018.

Mr B and not applying direct to Startline, and not knowing some of the branches

As Startline provides finance, a customer's applications would be carried out through the car dealer, not direct to Startline. And although Mr B says he didn't know some of the car dealer branches, the personal information about his name, marital status and date of birth, are identical on all the applications. I don't consider it's likely that different car dealers would have circulated this information between themselves and falsified applications in Mr B's name, which Startline rejected. Nor can I see any reason why Startline might have falsified applications in Mr B's name. I also wouldn't expect Startline to have Mr B's signature on the records of the applications made to it by its individual car dealers, nor to have a video or phone recording of every application.

Conclusions

As I set out in my provisional decision, there are multiple anomalies in the applications. The fact that two organisations worked from one building might explain one of the anomalies, but not all of them. Some applications show a different employer altogether. And the pay figures vary – up to £1,400 a month net pay difference. The tenure where Mr B was living, and some of the dates, also vary significantly between applications. And Mr B's new information, about only having six months' right to work in the UK, doesn't persuade me that it was ok for the applications to say his employment was permanent, when it couldn't have been.

Taking all these factors into account, I consider that Startline met the criteria for placing a CIFAS marker against Mr B's name, and I don't require it to remove the marker.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 February 2021.

Belinda Knight
Ombudsman