

The complaint

Mr Y complains that RCI Financial Services Limited has registered a marker at CIFAS, the national fraud database.

What happened

Mr Y said he applied for car finance with RCI in December 2016 but that this was declined. He found out in 2019 that RCI had added the marker in 2016. He is unhappy with this and says he hadn't attempted fraud. He thinks this could have been cleared up if it had contacted him at the time.

RCI says that the application details from the dealership said that Mr Y had lived at one address since 2001. But that when it assessed his application it found a record of adverse credit at a previous address. Mr Y hadn't disclosed this address and it considered that he had concealed this to try to obtain credit.

Our investigator recommended that the complaint be upheld and the CIFAS marker removed and Mr Y paid compensation of £100. He had asked RCI to provide details to support the marker being added. He understood that the application was made over the phone, so he wanted to listen to a phone recording or to see the telephone script that had been used. It could not provide this. Mr Y had told him he hadn't been asked about any other addresses. And Mr Y explained that the address being referred to was of a property he rented out and that he had lived at it for a period when he had separated from his wife. He had been at the main address since 2001 and it never occurred to him to mention the rental property. Our investigator was persuaded by the testimony of Mr Y taking into account that RCI had no other evidence. And so, he didn't think that the high bar for the CIFAS marker had been reached.

RCI didn't agree and wanted the complaint to be removed. It considered it had met the requirements for a marker and said that CIFAS had confirmed this.

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 need to consider whether the report to CIFAS was made fairly. On this point, RCI needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

It isn't in dispute that Mr Y had a connection to an address that wasn't included on the proposal from the dealership, that he said he had lived at his other address since 2001 and that he had adverse credit at that address. So, I can see why RCI believed it had grounds to register the marker.

We would expect RCI to retain the evidence that supports the marker being added and not

to need to obtain that subsequently. The issue is whether Mr Y was asked the specific question about previous addresses and answered it falsely or whether as he says he wasn't asked the question. I can't tell that from the input screenshot I've seen and for example don't know if a copy of this information was sent to Mr Y to confirm it and if he did so. I also can't match what's on that screen to any script used at the time to determine how the questions about this were likely asked. What I can see though is that the section about previous addresses is blank.

I appreciate RCI thinks that this is only a technicality especially taking into account the substantial history of adverse credit at the other address. That's a possibility but I don't think it's retained sufficient evidence to support that. And I am not persuaded that Mr Y set out to attempt fraud based on what I've seen and his own plausible explanation of what happened.

I've looked at whether RCI was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that RCI needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mr Y's account of events and the evidence RCI has provided, I'm not satisfied that RCI had sufficient evidence for the CIFAS marker to be recorded.

Putting things right

I agree with our investigator's recommendation for compensation as well as that the marker should be removed.

My final decision

My decision is that I uphold this complaint and require RCI Financial Services Limited to:

- 1) Remove the CIFAS marker.
- 2) Pay Mr Y £100 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 26 February 2021.

Michael Crewe
Ombudsman