

The complaint

Mrs M complains that Hitachi Capital (UK) Plc trading as Hitachi Capital Consumer Finance has unfairly registered a marker at CIFAS, the national fraud database.

What happened

Mrs M says that she found out in December 2019 that there was a marker when her application to another business was declined. The marker related to an application she made to Hitachi in August 2016. She doesn't accept that she attempted fraud.

Hitachi says that Mrs M made two applications for credit. In the first on 11 August 2016 she gave two addresses she had lived at. That application was declined. On 20 August 2016 she made a further application and gave a different address altogether and made no reference to the ones she had given before. One of those other addresses had adverse credit data recorded in her name. So, her application was declined again, and Hitachi registered the marker.

Our investigator didn't recommend that the complaint be upheld. Mrs M had disputed having any adverse credit data. But he'd seen that she had entered into an arrangement to pay with a different business between July 2015 and January 2016 and again between May 2016 and September 2016. That information was linked to an address she hadn't disclosed in her second application. Mrs M hadn't provided any evidence to suggest that she had moved back to her parents' address as she said she had in August 2016. But if that had been the case he didn't see why she wouldn't give her previous addresses as she had just nine days earlier. Both applications made online seemed to be to finance the same item and were made while Mrs M was in an arrangement to pay. He concluded that Mrs M didn't disclose the past addresses in an attempt to pass the credit checks on the second application. He saw no other explanation why those details could be so different. He was satisfied that Hitachi had sufficient evidence to justify the marker.

Mrs M didn't agree. She said that this wasn't a fair or proportionate action by Hitachi. She couldn't live at two addresses permanently. And she explained that she had been living at her parents for a significant period of time for personal reasons. The arrangement to pay was a temporary one when she had lost her job and struggled to find a new one. This is something that many people face, and she did her best to reach a constructive outcome. That business had later paid her compensation and she could provide evidence of that if she wanted. It isn't fair that one entry overshadows the entirety of her otherwise 99% good credit history. This is having a lasting effect and it is crucial that the marker is removed so that she can fully access credit.

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, Hitachi 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.

Mrs M has explained that at that time she had lived in several rental properties. The information indicates that she was last on the voters roll at her parents' property in 2010. And that she was on the voters roll at the address where there was adverse credit from 2016 and then through to 2018. And at the other address she gave on her first application from 2013 to 2016. I don't doubt that as she says losing her job and the other personal issues she describes would be difficult for her. And she came to an arrangement to reduce the payments on a credit card with a different business as a result. She disputes that this is adverse credit information and while I accept it's not as if she defaulted I can't agree that such information wasn't relevant to Hitachi and other lenders – and that's why it was reported. And the point is that whatever subsequent compensation that other business may have paid her the information wasn't removed. And based on what Mrs M says it appears to be an accurate representation of what happened.

The real issue here is why Mrs M having been declined for an application made on 11 August 2016 then made a further application on 20 August 2016 with different address information. In my view the only plausible explanation is that she must have thought that would give her a better chance of a successful application. And I can't accept that it is reasonable for her to describe this as an oversight. There was no acceptable reason in my view for her to omit her past history. And I think it most likely she did this in an attempt to conceal her then current payment issues with a credit card and so the extent of her then other commitments.

Hitachi says that it applied the CIFAS marker because Mrs M made a fraudulent application. So, I've looked at whether Hitachi 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 Hitachi 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 Mrs M's account of events and the evidence Hitachi has provided, I'm satisfied that Hitachi had sufficient evidence for the CIFAS marker to be recorded. I fully appreciate what Mrs M says about the impact the marker is having on her. But I'm afraid I can't use that as a reasonable ground to find that the marker is unfair or to require Hitachi to take any further action especially as it hasn't made any error in applying CIFAS guidance.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 15 February 2021.

Michael Crewe
Ombudsman