

## **The complaint**

Mr S complains that Barclays Bank UK PLC recorded an entry about him on a fraud prevention database in connection with his mortgage.

## **What happened**

Mr S applied to renew his motor insurance, and was turned down. He then discovered that Barclays had also made an entry about him on the fraud prevention database CIFAS in 2015. He complained to Barclays that it had made the entry and hadn't told him it had done so.

Mr S had two mortgages with Barclays, and in 2015 applied for a third. The two existing mortgages were on properties I'll call 5W and 2R. Both were residential mortgages. Mr S applied for a third mortgage, this time buy to let, giving his home address as a property I'll call 69P. So Barclays had concerns that he wasn't living in his residential properties.

Mr S said that he had applied for permission to let out 5W in 2015. And he said he had also had permission to let 2R – though that mortgage had been repaid in 2018.

Barclays agreed it had granted permission to let on 2R in 2014. But it said it had no record of having granted permission to let on 5W – and it was policy not to do so with two residential properties at the same time. It said Mr S was in breach of the terms and conditions of the mortgage on 5W. And it considered he had been misusing his mortgage products.

Our investigator didn't think it was fair that Barclays had placed a marker on CIFAS. So he said it should be removed. Barclays 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.

It's not in dispute that Mr S was letting out both 2R and 5W and not living at either property, even though both had residential mortgages.

When Mr S applied for permission to let 2R in 2014, he gave his address on the form as 69P – not 5W.

Mr S has said that he lived at 2R until 2014, and had also lived at 5W for some time. But due to changes in his parents' health and his work situation, he moved to 69P, his father's property (and on the same street as his mother).

Mr S applied for permission to let 5W in 2015. Barclays says it turned that application down because it wouldn't allow permission to let on two separate mortgages. Mr S says he was never told about this. He had discussed his situation with his relationship manager and believed permission would be granted, so when he didn't hear anything he assumed all was well. But Barclays says he knew or should have known that permission to let had been

turned down and he should have been living in the property.

The CIFAS database is one of the industry wide fraud prevention databases. It plays a very important role in allowing information sharing about suspected financial crime across the financial services industry – helping protect the integrity of the system.

But for the same reasons, recording an entry about an individual can have serious consequences. And for that reason, there are safeguards. The database's principles for members are published on its website and – among other things – set out the standard required for making an entry.

One of the principles says that a member – such as Barclays – should only make a report where there are *“reasonable grounds to believe that a fraud or financial crime has been committed or attempted”*. And the evidence to support those grounds must be *“clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police”*.

In other words, an entry on the database requires good evidence of criminal conduct.

Even if I take Barclays' case at its height, I don't think it can reasonably be said that it has shown the threshold has been met.

If Barclays is right, Mr S let out his residential properties without its consent. And that would put him in breach of his mortgage contract – and entitle Barclays to take various actions, including terminating the mortgage and repossessing the property to recover the debt.

But breach of a mortgage contract is not a crime. Barclays has not provided any evidence that Mr S has committed or attempted fraud or any other crime. Nor has it sought to argue that he did so; it has argued that he has misused his mortgages. And while misusing existing facilities is one of the categories that can be recorded on the database, it's still subject to the principle that there must be relevant and rigorous evidence to give rise to reasonable grounds to suspect fraud or crime. I'm not persuaded in the circumstances that it was fair for Barclays to make a report.

### **Putting things right**

As I'm not persuaded it was fair to make a report, it follows that it's fair that the record should be removed now.

### **My final decision**

For the reasons I've given, my final decision is that I uphold this complaint and require Barclays Bank UK PLC to remove any entry it has made on a fraud protection database in connection with Mr S renting out property subject to his residential mortgages.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 April 2021.

Simon Pugh  
**Ombudsman**