

The complaint

Mr A has complained that Lending Works Limited registered a marker against him at CIFAS, the national fraud database.

What happened

In 2018, someone applied to Lending Works for a £7,500 loan in Mr A's name to pay for a wedding. The application used his correct personal details, contact details, banking details, address history, and a picture of his genuine passport. The money was asked to be paid into Mr A's genuine bank account.

The application also used bank statements which mimicked Mr A's. The transactions and balances had been altered to make it look like he had a credit balance and was not using his overdraft, and to make it look like he had a higher income from his work.

Lending Works talked to Mr A's bank and found out that the statements were doctored. They declined the application. A man called Lending Works to query the decline, who was able to pass security and be identified as Mr A. Lending Works registered an application fraud marker against Mr A at CIFAS.

In 2020, Mr A says he discovered the marker following a credit check. He complained, saying he had never applied for the loan. Mr A explained that at the time, it was the run-up to his wedding, so there were lots of friends staying at his home who could have impersonated him. He initially said he suspected one friend in particular who he had since lost contact with, but later clarified that he only mentioned them as he felt under pressure to give a name.

In response to questions, Mr A explained that he kept his bank card in a wallet with other cards, which was either with him or in a bedside drawer. He didn't notice it go missing. He didn't keep a record of the PIN or share it with anyone. He also kept his passport in a bedside drawer and didn't notice it go missing. No one had a spare key to his home, but many people were visiting at the time, including the previously-mentioned friend who stayed over. There was no one in particular who he suspected could or would have done this without his permission.

Our investigator looked into things independently and didn't uphold the complaint. Mr A didn't agree. He added that someone might have hacked his online banking. He also felt that Lending Works were wrong to talk to his bank, and was also unhappy with his bank. The complaint was passed to me to decide.

I sent Mr A and Lending Works a provisional decision on 11 May 2021, to explain why I didn't think the complaint should be upheld. In that decision, I said:

In order to register this marker, Lending Works were not required to prove beyond all reasonable doubt that Mr A had done something wrong. Instead, they had to have reasonable grounds to believe he'd deliberately submitted doctored statements to apply for the loan, going beyond a suspicion or concern, with appropriate evidence to support this. Having carefully considered everything that both sides have said and provided, I currently think that Lending Works did have sufficient grounds to register the marker. I'll explain why.

The application in question used quite a bit of Mr A's genuine data. It not only had his correct personal details such as his full name and date of birth, but his historic addresses, his genuine contact details, his genuine banking details, and so on. The applicant even submitted a photo of Mr A's genuine passport, which was kept securely in Mr A's home and which he didn't notice go missing. And when they called Lending Works, they were able to pass security and identify themselves as Mr A – though because of the time that's passed, call recordings are not still available.

It is very difficult indeed to see why someone trying to defraud Mr A would put his genuine contact details on this loan application. That would mean that whenever Lending Works needed to talk about the application, they would call or email Mr A, which would alert him to the fraud very quickly. Indeed, Lending Works did correspond via email with one of Mr A's genuine email accounts. He says he didn't notice these as he didn't use that email address as often anymore – but even if that was the case, there was no reason for a fraudster to take such a large and unnecessary risk. And it seems more likely that Mr A would've noticed at least one of the emails going back and forth from his own account.

The loan was set up to be paid into Mr A's genuine bank account. Again, it's difficult to see why a fraudster would do this if they already had access to so much of Mr A's sensitive data as well as his passport and email account – at that point they could've potentially just set up a new recipient account elsewhere. And again, by paying the loan into Mr A's account, it unnecessarily risked Mr A noticing what was going on and reporting the fraud. The main person who stood to benefit from the loan being paid into Mr A's account was Mr A. Importantly, this also raises the question of how a fraudster could have accessed Mr A's account to spend the loan money.

Mr A's card was kept safe and he didn't notice it go missing. I've looked at his current account statements from the time and can see that Mr A continued to use his card quite often, so he would've realised if it had disappeared. Mr A said he didn't share or record his PIN anywhere, and according to his bank's records it was a random number generated by the bank, and so not a number that could easily be guessed. So if Mr A's card remained in his possession and no one else knew his PIN, there wasn't a plausible way that an unknown fraudster could've used them to spend the loan money.

I've also looked into Mr A's online banking – he suggested someone could have hacked it. But first, his online banking was secure, needing two-factor authentication such as Mr A's physical card – which he still had with him, as well as a card reader and his security details. And in any case, no one logged into Mr A's online banking – or even tried to log into it – in the time leading up to the loan application or the weeks that followed. So there was no one trying to use his online banking to receive or spend the loan funds. As far as I can see, the only logins in all of 2018 were from Mr A's normal device, using his correct authentication. It appears that the only person who could've reasonably expected to spend the loan funds using Mr A's online banking was Mr A himself.

The loan being set up to pay into Mr A's bank account raises further issues, too. If – as the evidence indicates – no one other than Mr A could've reasonably accessed his account, then no one other than Mr A would've had any good reason to apply for a loan to be paid to him. But even if I accept that someone else had access to Mr A's card and PIN or online banking, and if I accept they were trying to defraud him, then it doesn't seem to make sense that they never used this to try any other fraud again. Once they saw the loan had been declined, they could have tried to take smaller credit elsewhere, or could have easily spent Mr A's money, or maxed out his overdraft, and so on. It seems most implausible that someone would go to all the effort of stealing Mr A's identity in so much detail, taking large risks to do so, gaining access to his passport, email account, and bank account – only to never then use this for their own benefit.

Further, if someone had access to Mr A's bank account, there was little need for them to have forged bank statements. They could've used his card and PIN or online banking to produce genuine ones. The main purpose of the forgery appears to have been to make Mr A's financial situation look better. It's not completely implausible that a fraudster would do this, but it would've added unnecessary risk for them. Whereas it would have potentially benefitted Mr A if it was him applying for the loan and he was worried about not getting it. I've also noted that the doctored statements do have some of Mr A's genuine details on them and appear to have been put together quite accurately – matching formatting and technical details from Mr A's bank. It looks like in order to put these together, the person would have needed to copy from genuine statements.

Given all that I've said above, I think we can safely rule out that an unknown fraudster applied for this loan in Mr A's name. There's no plausible way they had access to Mr A's passport – they would need to have broken into Mr A's home, found his passport, and taken it without him noticing and without them stealing anything else. And since Mr A still has his passport, they would also need to have broken into his home again just to return it to him – when there'd be no reason for a third-party thief to do so. It also doesn't seem likely that an unknown thief could have known all of the genuine details on the loan application. And there was no plausible way they could have both taken Mr A's card – which he still had afterwards – and learned his PIN, which wasn't recorded or shared. And no one was accessing his online banking. So an unknown thief would've had no way to spend the loan money.

It is possible that someone known to Mr A could have applied for this loan without his permission. Technically, someone Mr A knew could have gradually gathered his details and passport while visiting his home, and they could have spied on him entering his PIN at some point and planned to steal his card. But I don't think that's likely. It would have been very difficult indeed for them to have gained access to the amount of data and security details involved here, and to have stolen Mr A's card and passport and returned them to him without Mr A ever noticing anything was wrong. It still doesn't make sense for them to have put down Mr A's genuine contact details and risked him learning about the fraud. And it still seems implausible for them to have gone to all that length of stealing his identity, only to ask for the money to be paid to Mr A and then to never go through with defrauding him. Further, it's not clear how a friend could've gained control of Mr A's email account – Mr A suggested his password could've been compromised by an unknown hacker, but we've already ruled out an unknown party being involved. And Mr A has clarified that he doesn't actually suspect anyone he knows of doing this – he only mentioned a particular friend before as he felt under pressure to name someone. So Mr A himself does not seem to think this was a likely possibility, either.

I do also need to bear in mind that this loan was applied for to pay for a wedding – and Mr A was indeed preparing to get married at the time. Mr A could have really benefitted from the loan, so it seems both likely and plausible that he could've applied for it himself. Certainly I've not seen anything which makes me think it's implausible that he applied for it.

I have also looked carefully at the emails between the applicant and Lending Works. The person applying for the loan wrote in the same distinctive style as Mr A, using similar or identical phrases and making the same grammar mistakes.

In summary, Mr A's genuine details, passport, phone and email, and bank account were used to apply for this loan. Lending Works corresponded with someone who wrote in the same distinctive way as Mr A via his genuine email address, and spoke to someone on the phone who was able to pass security as Mr A. The loan was set up to be paid to Mr A to cover a genuine life event of his. And it would have been very difficult for anyone other than Mr A to have benefitted from the loan or the way it was applied for. Based on the evidence, there isn't a plausible way an unknown person could've been defrauding Mr A. And there isn't a likely way that someone known to Mr A did all this without his permission, either – indeed, Mr A himself seems to have now put aside that possibility. That leaves only one likely possibility – that Mr A applied for the loan in question and gave Lending Works altered statements. This is a difficult message for me to give, and I know it's a difficult message for Mr A to receive. But given the evidence and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

So based on everything I've seen so far, I think Lending Works acted fairly in registering the CIFAS marker against Mr A.

Lastly, I understand that Mr A was unhappy that Lending Works spoke to his bank to check his application. But Lending Works were entitled to do so, and they did nothing wrong there. I also understand that Mr A is unhappy with his own bank – but this complaint is against Lending Works. He can complain to his own bank separately if he so wishes.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 8 June 2021. Both sides confirmed they had nothing further to add, though Mr A reiterated that he had told the truth.

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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case carefully, I've come to the same conclusion as before – that is: given the weight of the substantial evidence involved, I think it was fair for Lending Works to register the CIFAS marker here.

My final decision

I don't uphold Mr A's complaint in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 7 July 2021.

Adam Charles
Ombudsman