

The complaint

Mr S complains that TSB Bank plc has recorded a marker at CIFAS, the national fraud database.

What happened

TSB says it recorded the CIFAS marker following an application by Mr S in June 2019 because he didn't disclose a previous address which had adverse credit data recorded. He had made other similar applications. It said that Mr S had originally denied making this application at all and that this had been the basis for a complaint. But he had now said that his mistake was to give the incorrect date of moving into a property. TSB maintained that the marker was applied in line with the CIFAS principles.

Our investigator didn't recommend that the complaint be upheld. She said that TSB had said that Mr S had provided incorrect information on more than one occasion. So, she didn't think that it was a one-off mistake for Mr S to use the wrong date. And she looked at his credit history that he provided, and which gave the date he was registered on the electoral register at his new address. That date was close to the date of the relevant application, so she didn't accept he likely forgot when he moved.

Mr S didn't agree and wanted his complaint to be reviewed. He said he has been unable to get access to financial products due to the marker and this has affected his mental health.

my provisional decision

I issued a provisional decision on this complaint on 30 July 2021. I set out below what I said.

I'd asked our investigator to clarify with TSB the exact basis for the marker being applied. That was because TSB had indicated that this was because Mr S had omitted the address altogether whereas our investigator had considered the plausibility of Mr S' explanation about why he gave an incorrect date for moving into his address.

TSB responded to say that it has registered the marker because it believed Mr S "*omitted an address intentionally*". It went on to say that it wasn't specifically because adverse credit information had been added there after he said he left the address. As Mr S went on to deny making the application at all it considered that he had tried to manipulate the process.

The reason I asked for this clarification was because on the application details provided by TSB it showed the old address and that Mr S had apparently said that he moved from there in July 2018. The credit record he provided to this service showed he was added to the electoral roll at the new address in July 2019. There was adverse credit information for him at his previous address both before and after the date Mr S said he moved there.

TSB has indicated with the application information that it was considering his addresses over the last three years to be the relevant ones. So, for the old address not to be included on an application made in June 2019 Mr S would have needed to have claimed he hadn't lived there since June 2016. But Mr S says the old address was included and as I say that is what

the evidence from TSB shows. In addition, I hadn't seen from what TSB has provided that Mr S had made other *prior* applications with this information although this is what TSB seems to say happened.

TSB also made the decision about the marker before Mr S claimed he hadn't made the application at all. He has clearly assumed that the issue was that the date he moved into the address was wrongly input. And he made a poor decision then in denying he made the application, rather than as now attempting to explain why the date he provided was incorrect.

my assessment

I needed to consider whether the report to CIFAS was made fairly. On this point, TSB 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.

TSB says that it applied the CIFAS marker because Mr S omitted an address from his application that had a material credit history. So, I looked at whether TSB 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 TSB 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 S' account of events and the evidence TSB has provided, I wasn't satisfied that TSB had sufficient evidence for the CIFAS marker to be recorded.

I said this because the evidence provided by TSB doesn't support what it says. I thought it has had a reasonable opportunity to provide that evidence to this service. And I didn't think it is appropriate for me to apply different reasoning now for the marker. Even if I were to consider this on the basis of the incorrect date I didn't think there is sufficient to show Mr S had the intent of fraud given what I'd said about his credit history. And nor could I reasonably use his subsequent actions of denying the application to show that either. Because he seemed to have done so with the impression that the issue was the date he moved into the address. And that wouldn't here have been a sufficient basis for the marker. So, I considered the marker should be removed.

Other financial businesses must make their own checks when considering applications. And a marker shouldn't lead to automatic refusal. In addition, Mr S has a credit record with adverse information, and so I wasn't going to be able to say that he would otherwise have been granted an account or product elsewhere but for this marker.

I had considered whether compensation for distress and inconvenience is appropriate here. I didn't think that it was. I took into account that Mr S initially raised a falsely based complaint saying that he hadn't made the application at all and so the marker wasn't justified. He also on his account was careless in dealing with his information. He has a significant wider credit history and I didn't think that the application of this marker and the way he dealt with it gave me a reasonable basis to find that TSB was fairly responsible for distress and inconvenience for him.

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.

TSB said it accepted my conclusions and would remove the marker. Mr S agreed with my provisional decision too. As a result, I see no reason to depart from it.

My final decision

My decision is that I uphold this complaint and I require TSB Bank plc to remove the marker at CIFAS.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 October 2021.

Michael Crewe
Ombudsman