

The complaint

Mrs M has complained that HSBC UK Bank Plc has registered a marker against her at CIFAS, the national fraud database.

What's happened?

Between February and May 2020, Mrs M made four online applications for a HSBC bank account. HSBC says that when she gave it her address history, she left off an address which had negative information linked to it. On 26 May 2020, it registered a marker against her at CIFAS for application fraud, on the basis of an undisclosed address. It says the marker was correctly recorded in line with its internal checks and procedures.

Mrs M has explained that she was only asked for three years of address history when she made the applications. She's said the marker left her unable to open a bank account with an alternative financial institution and caused her embarrassment, and the whole situation has had a significant impact on her mental health over time.

Our investigator upheld this complaint. They didn't think there was sufficient justification for the marker to remain. They said HSBC should remove the marker and pay Mrs M £150 by way of compensation for the upset this matter has caused her.

HSBC didn't agree with our investigator, and Mrs M felt that she should receive more compensation than our investigator had recommended. So, the complaint has now been passed to me to decide.

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 HSBC's report to CIFAS was made fairly. On this point, HSBC needed to have more than just a suspicion or concern. It needs to be able to show that it had reasonable grounds to believe that fraud or a financial crime had been committed or attempted, backed up by evidence which would support it being reported to the authorities.

Mrs M says she has resided at the following three addresses since August 2016:

- an address which I'll refer to as 'address 1' between August and December 2016.
- an address which I'll refer to as 'address 2' between January and March 2017.
- an address which I'll refer to as 'address 3' since March 2017.

HSBC has confirmed it would have asked Mrs M for three years of address history on the account applications she completed. It has sent us the details she gave in three out of four of the applications. I can see that Mrs M only told HSBC about address 3 in the applications, and she said that she'd been living there since March 2016.

So, according to Mrs M's own testimony, the information she gave HSBC was incomplete and inaccurate. She didn't disclose address 2 in her earlier applications, and she told HSBC

she'd been living at address 3 since March 2016 rather than March 2017. But the address which HSBC says Mrs M left off her applications was address 1. And Mrs M says she hadn't lived there in the previous three years, so she didn't need to disclose that address.

I've looked at the credit file information that HSBC retrieved when considering the applications Mrs M made. The adverse information recorded against address 1 that has led to HSBC registering a CIFAS marker against Mrs M was put on her credit file in 2019. HSBC says that adverse information recorded against an undisclosed address within three years of an application is considered sufficient evidence for it to place a CIFAS marker without any further investigation. But I don't agree that this is a fair approach to take in all circumstances. I accept that it may be enough to cause HSBC to have a suspicion or concern. But the question is whether HSBC had sufficient grounds to conclude that Mrs M intentionally attempted to commit fraud – in other words, was she deliberately dishonest, intending to deceive HSBC for the purposes of opening a new account, or not. And I don't think HSBC can make a reasonable decision in this respect, in all cases, without looking at the wider picture.

Other information on Mrs M's credit file suggests that she had an association with address 3 since early 2017, in support of her testimony about her address history. And I note that the most recent finance at address 1 was taken out in August 2016. Considering Mrs M's financial background, I think this is noteworthy and points to her living elsewhere after that time as she's said. It could be, for example, that Mrs M did not update the finance provider that recorded adverse information against address 1 in 2019 with her new addresses, so it simply recorded against the address it had on its files.

Overall, I don't agree that HSBC can reasonably rely on one aspect of the credit file in isolation, especially when that information conflicts with other information present. Looking at the whole credit file, I think the information is conflicting. But HSBC doesn't appear to have made a significant investigation into the matter at the time. For example, I can't see that it spoke to Mrs M or asked for clarity before adding the marker – and I think it really should have given her the opportunity to explain herself. This is a point of concern. It is difficult for me to see how HSBC could be satisfied that Mrs M intentionally tried to deceive it without really looking into the matter or trying to clarify the situation. I'm not persuaded that HSBC should have assumed Mrs M was trying to commit fraud simply because she didn't disclose an address which she may or may not have resided at in the past three years with adverse information linked to it.

Also, any errors or omitted information in the applications could have been a mistake, not deliberate. We've spoken to Mrs M during the course of our investigation and I'm satisfied that her testimony is broadly consistent and plausible. She moved home a few times in 2016 and 2017 and it was a difficult period for her – she was, in her own words, 'sofa-surfing' and suffering with her mental health. It's reasonable that she could have made a mistake in her applications. I think this is supported by the fact that adverse information was recorded against address 3 too when she made the applications for HSBC accounts. It is difficult for me to see what benefit Mrs M would've seen to withholding one address with adverse information linked to it, yet disclosing another.

Of course, it is possible that Mrs M intentionally tried to deceive HSBC. But that alone is not a good enough basis on which to register a CIFAS marker. As I've said, HSBC needed to have more than just a suspicion or concern about the possibility of fraud. It needed to be able to substantiate evidence that this was fraud, and not merely a mistake or misunderstanding. But because of its apparent lack of investigation at the time, it doesn't seem to be able to do that. So, I am not persuaded that HSBC had sufficient grounds to apply this CIFAS marker, nor can I safely conclude that the marker is fair. Therefore, I direct HSBC to remove the marker in dispute.

Lastly, I've considered the issues Mrs M has faced since the marker was added, and the amount of time that this matter has been ongoing. Mrs M has said that her application for an account with another financial institution was turned down because of the marker, and I don't doubt that this would have been embarrassing for her. I'm also persuaded that the presence of the marker over a protracted period would have caused Mrs M trouble and upset. But I'm pleased to hear from Mrs M that she was able to open a bank account in 2020 as she wished. And whilst the marker may have had some impact on Mrs M's ability to obtain other credit, from what I've seen, I'm not satisfied that it would have been the only factor affecting her creditworthiness. Overall, I think that £150 is a fair amount of compensation for HSBC to pay.

My final decision

For the reasons I've explained, I uphold this complaint and instruct HSBC UK Bank Plc to:

- remove the disputed marker.
- pay Mrs M £150 by way of compensation for the trouble and upset this matter has caused her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 16 March 2022.

Kyley Hanson
Ombudsman