

The complaint

Mr O has complained that Startline Motor Finance Limited registered a marker against him at CIFAS, the national fraud database.

What happened

Mr O applied for a loan with Startline. Startline says that when he gave it his address history, he left off an address which had negative information linked to it. It registered a marker against him at CIFAS for application fraud, on the basis of an undisclosed address.

Mr O explained that, following a toxic relationship, he'd been moving addresses frequently and may well have forgotten to mention that one. But it was just a mistake, not deliberate. He said the marker had led to his accounts being closed, and trouble getting a mortgage.

Our investigator looked into things independently and upheld the complaint. They'd asked Startline for evidence to support the CIFAS marker, but received little. They didn't think there was sufficient justification for the marker to remain. They said Startline should remove the marker. Though they found there were other factors which led to Mr O's accounts being closed and his trouble getting a mortgage, so they didn't recommend compensation.

Mr O accepted the investigator's view, but Startline didn't agree. It felt it was reasonable to expect Mr O to remember his address history. It said the missing address had recent adverse information, so it could assume Mr O had left it out intentionally. It said Mr O had given inconsistent details about his employment history in later loan applications.

The complaint's 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 this report to CIFAS was made fairly. On this point, Startline 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.

It is not in dispute that Mr O failed to mention an address on his address history. That may have been enough for Startline to have had a suspicion or concern. But the question is whether Startline had sufficient grounds to conclude that this was an intentional attempt to commit fraud, or not.

Startline does not appear to have made a significant investigation into the matter at the time. For example, I can't see that it spoke to Mr O or asked for clarity before adding the marker – and it really should have given him the opportunity to explain himself. Further, despite our investigator's requests, it has not provided basic evidence such as its credit searches – so it's not fully clear how significant this missing address even was.

This is a point of concern. It is difficult for me to see how Startline could be satisfied that Mr O intentionally tried to deceive it without really looking into the matter or trying to clarify the situation. I certainly don't agree with Startline that it can just "assume" Mr O had tried to commit fraud simply because the missing address had adverse information linked to it.

I also note Startline's comments regarding Mr O's later applications, and I can understand why it thought to mention this. But at the time Startline added this CIFAS marker, those other applications hadn't happened yet and were not relevant. And Mr O's employment situation is not particularly relevant to a CIFAS marker registered for an undisclosed address.

Mr O's testimony seems broadly plausible. It's reasonable that he could have made a mistake, not least if he was in a tough situation and was moving around.

I am, of course, conscious that it is also a plausible possibility that Mr O intentionally tried to deceive Startline. But that alone is not a good enough basis on which to register a CIFAS marker. Startline needed to have more than just a suspicion or concern about the possibility of fraud. It needed to be able to substantially evidence that this *was* fraud, and not merely a mistake or misunderstanding. But because of its lack of investigation at the time, it does not appear to be able to do that. So I am not persuaded that Startline had sufficient grounds to apply this CIFAS marker, nor can I safely conclude that the marker is fair. Therefore, I direct Startline to remove the marker in dispute.

Lastly, I've considered the issues Mr O has faced since the marker was added. He explained his accounts were closed and he's had trouble getting a mortgage – for which he has my sympathy. But I'm afraid that, from what I've seen, his accounts were closed due to multiple factors, rather than just the CIFAS marker. Similarly, his mortgage broker seems to have said it was other negative information that was preventing him from getting a mortgage. So I don't think I can fairly tell Startline to pay Mr O compensation for those issues.

My final decision

For the reasons I've explained, I uphold Mr O's complaint, and direct Startline Motor Finance Limited to remove the disputed marker.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 6 December 2021.

Adam Charles
Ombudsman