

## **The complaint**

Mr H complains about a fraud prevention marker recorded by Volkswagen Financial Services (UK) Limited.

## **What happened**

In September 2020, Mr H contacted a car dealer to buy a used vehicle. During their discussions, the dealer tried to secure borrowing for Mr H, to allow him to get the car. After several attempts with other lenders, the dealer and Mr H decided to pursue an application for a finance agreement with Volkswagen.

While the application was with Volkswagen, they asked Mr H to provide more information about his financial circumstances. So, Volkswagen asked Mr H to send them bank statements from one of his business accounts. Mr H says he asked one of his staff members to organise this, as he was overseas.

Mr H says his staff member initially submitted bank statements from a different business account, which he wasn't associated with. He also says the name and address on that bank statement was redacted. After learning of this, Mr H says the same staff member resubmitted the same statements again. Only this time they included Mr H's name and address. This made it appear that Mr H was the holder of a bank account that wasn't actually his.

Once Volkswagen received the resubmitted bank account statements, they declined the application based on the information provided by Mr H. Additionally, Volkswagen recorded a fraud prevention marker with Cifas. Mr H didn't know about the marker recorded with Cifas and says he found out around six months later, when he applied for borrowing elsewhere.

Unhappy with what had happened, Mr H complained to Volkswagen. They responded to say they acted correctly given that Mr H had provided bank account statements where the details had been altered. Mr H didn't accept this and brought his complaint to us.

One of our investigators looked into Mr H's case and found that Volkswagen had treated Mr H fairly. He said the onus was on Mr H to make sure the information provided as part of the finance application was correct. He also concluded that it was fair of Volkswagen to have recorded the fraud prevention marker, with reference to Cifas' own guidance about passing such information to them.

Mr H didn't agree. He said Volkswagen should have contacted him first, because he could have explained about the errors made by his staff member. He said the impact on his business was severe and would get worse if the marker wasn't removed by Volkswagen.

The investigator didn't change his conclusions and Mr H's case has now been passed to me to make a final decision.

## 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.

### *The Cifas marker*

The type of Cifas marker that Volkswagen asked to be applied relates to the discrepancies they found during Mr H's application. To file such a marker, Volkswagen are not required to prove beyond reasonable doubt that Mr H is guilty of a fraud or financial crime, but they must show that there are grounds for more than mere suspicion or concern.

Cifas guidance says:

- *“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]*
- *The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

So, the relevant finding for me to make is whether I think there is sufficient evidence to conclude that Mr H provided incorrect information to try and secure borrowing. And in relation to this, where Volkswagen would be able to escalate its concerns to Cifas.

### *The finance application*

Mr H applied for the finance for the car using his personal details, rather than in the name of a business. He says he provided Volkswagen with details of his personal bank account and thought it odd, that he was subsequently asked for statements from his business bank account.

I've considered this further, along with the amount of the finance Mr H applied for and the deposit he intended to pay to the dealer. Having done so, I think it was reasonable for Volkswagen to ask further questions about Mr H's income and expenditure.

Lenders are required to carry out proportional checks, to satisfy themselves that any borrowing they provide is sustainable. Here, Volkswagen needed more supporting evidence from Mr H. So, I think it was fair for them to ask for more information about his financial circumstances.

To support the application, Mr H says he arranged for one of his office staff to send his business bank account statements to Volkswagen. He says she made an error, by sending statements for a separate business, which Mr H isn't part of. Mr H also says it was normal practice for his office worker to redact the name and address from any financial information being sent outside of his business.

I understand Mr H's reasons for being cautious when sensitive information is passed between businesses. But, Mr H was looking to provide supporting documents in a finance agreement. So, I think it was reasonable for the information on the bank statement to show the relevant details.

Moreover, when Mr H became aware he needed to resubmit his business account statements, he says his member of staff made a further error. Mr H says instead of removing the redaction, the staff member copied his name and address onto the statements for the account that wasn't his.

Having considered everything, I think incorrect information was sent to Volkswagen as part of the car finance application. The incorrect information made it appear that Mr H was the owner of a business account, which he wasn't actually connected to. So, on balance, I think Mr H provided Volkswagen with financial information which wasn't an accurate reflection of his financial circumstances.

I acknowledge where Mr H says he didn't actually provide the incorrect information, as it was a member of his office staff. I also understand Mr H's reasons for making those arrangements, since he was overseas and says he didn't have access to the information.

But, I think Mr H was responsible for providing the information needed by Volkswagen. The application was in his personal name. So, I think the onus was on him to make sure all the correct and relevant information Volkswagen had asked for, was sent to them to support the car finance application.

In all the circumstances, I think Volkswagen treated Mr H fairly when they asked for the specific statements and started to process the application, once Mr H had arranged for the information to be sent to them.

#### *Volkswagen's actions after declining the application*

Soon after declining the application, Volkswagen's records show they recorded the fraud prevention marker with Cifas. Mr H says Volkswagen should have contacted him before doing that, because he could have explained what had happened. He says it's likely Volkswagen wouldn't have placed the marker with Cifas as result.

I've concluded that Mr H had submitted incorrect information to Volkswagen as part of a car finance application. I think the use of that information was very important to the outcome of Volkswagen's lending decision. And I also think the responsibility was on Mr H to provide accurate bank statements to Volkswagen.

Overall, I think the evidence was clear, relevant and rigorous such that Volkswagen could confidently report what had happened to the police. After thinking carefully about the evidence they had, I also think Volkswagen had reasonable ground to believe Mr H had used the incorrect information to form part of his car finance application.

Had Volkswagen sought to ask more questions of Mr H, I think they would have still been faced with the same situation. In other words, Volkswagen still needed to consider that the details submitted by Mr H were from another business' bank account, with the account holder's details changed for his.

In all the circumstances, I don't think Volkswagen treated Mr H unfairly by recording the fraud prevention marker with Cifas, without asking further questions of him beforehand.

I do of course acknowledge the very difficult personal circumstances Mr H has described to us and the worries he faces. But, when looking at all the evidence, I think Volkswagen have treated him fairly.

#### **My final decision**

My final decision is that I don't uphold Mr H's complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 July 2022.

Sam Wedderburn  
**Ombudsman**