

The complaint

Ms I complains that Bank of Scotland plc, trading as Halifax, recorded a marker against her name on a fraud prevention database - CIFAS.

What happened

Ms I applied for a mortgage with Halifax, via a broker, in 2016. Halifax approved the mortgage but in 2017 recorded a marker for application fraud against her name on the CIFAS fraud database. The database is a cross-industry fraud prevention database which allows financial services providers to share relevant information, subject to safeguards.

In 2022, Ms I found out about the fraud marker following an application for a credit card with Halifax. She made a data subject access request (DSAR) to CIFAS which showed that Halifax recorded a marker against her name for application fraud in 2017.

Ms I made a complaint to Halifax. It responded and declined the complaint but agreed to remove the marker.

Unhappy with this, Ms I referred the matter to this service. Our investigator didn't think Halifax had acted unfairly in applying the marker and, as it had since been removed, didn't think the complaint should be upheld or any further action was needed from Halifax.

Ms I disagreed and asked for an ombudsman to consider the matter. She says this matter has been very distressing and that she has been unable to obtain credit from other lenders as a result of the marker.

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.

Having carefully considered all the evidence and arguments, I agree with the investigator for broadly the same reasons. I'll explain why.

CIFAS issues principles for its members (which are available on its website) which set out the standard of proof to be applied in making an entry on the database. Making an entry doesn't require proof of fraud or a criminal conviction.

The standard to be applied is that Halifax should have had clear, relevant and rigorous evidence such that it could confidently report the matter to the authorities should it choose to do so – so the standard is not proof of fraud, but reasonable suspicion of fraud. And although the principles were issued in 2018, I think they represented existing good practice.

Halifax has explained that it applied the marker following an internal audit. It said the marker was applied due to inconsistencies in the information provided. And whilst it would have been preferable for this information to have been checked at the time of the application rather than after it had been approved - I've reviewed the information and I don't consider

that the decision to enter the marker was an unreasonable one.

I understand the difficult position that Ms I is in and her comments about the effect this had on her over the last few years, but I don't think that Halifax treated her unfairly when it entered the marker.

I can appreciate Ms I's concerns and frustrations with other lenders declining her applications. But I don't consider it fair to hold Halifax responsible for the actions of other lenders. It is for other lenders to make their own investigations and enquiries rather than declining any applications just because of the presence of a CIFAS marker – this is set out in CIFAS's guidance to its members.

I also note that the record reflects that the facility was granted – which would have also been visible for other lenders to see. If Ms I is unhappy with the decisions reached by other lenders – she will need to address her concerns to them directly.

Halifax has now agreed to remove this marker due to the length of time that has passed since it was applied. As I don't consider it was an unreasonable decision to apply this marker and it has now been removed – I don't require Halifax to take any further action to resolve this complaint.

Whilst I understand that this will come as a disappointment to Ms I, having considered everything, I don't think I can fairly uphold her complaint.

My final decision

For the reasons I've given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms I to accept or reject my decision before 29 September 2022.

Camilla Finnigan
Ombudsman