

The complaint

Miss J complains that Bank of Scotland plc, trading as Halifax (“Halifax”) made an entry about her on the Cifas fraud prevention database in connection with a mortgage application and that it refused to remove this.

What happened

Miss J applied for a mortgage with Halifax in June 2019 but this was declined in September 2019 due to fraudulent information being provided.

Miss J says that she met someone at an event in March 2019 who posed as a mortgage broker. She says they discussed her right to buy and the fact she could still have a mortgage despite working more than one job and the man took her details. Halifax contacted her and said that it had received a mortgage application from her but that she had submitted fraudulent documents and committed mortgage fraud. Miss J says that she has never heard of the company entered on the application and that she didn’t make the application, so someone had posed as her to get a mortgage. She later found out that she had a Cifas fraud prevention marker against her name. She asked for the call recording during which the application was made but Halifax wouldn’t supply this as she said it wasn’t her who made the application and the call. Miss J would like the fraud marker to be removed.

Halifax says that Miss J’s application was not submitted by a broker but was made using its online system and then completed over the phone, with the caller providing Miss J’s personal details. Halifax was given information about Miss J’s employer and salary and a payslip was provided to evidence this income. A copy of the application summary was sent to Miss J’s home address which confirmed the information given but Miss J did not contact Halifax to notify it that the information was false. Miss J has since confirmed her correct employment and income details and said that she didn’t get the application summary.

Halifax has asked Miss J for additional information about her application and the broker used. It says that a number of checks have been made, which have identified that incorrect information has been given. Halifax requested copies of the documents Miss J sent to her broker but it has only received a draft email to Miss J’s own email address containing documents. It says this email doesn’t show that Miss J provided her genuine income documents to a broker, as the email is not addressed to a broker and the broker is also not mentioned in the documents. The company Miss J said the broker worked for has no record of the broker Miss J says she used and doesn’t have her registered as a former client. Therefore Halifax is of the view that there is no evidence that there was a fraud against Miss J and it is not willing to remove the CIFAS marker.

Our investigator looked into Miss J’s complaint and was of the view that Halifax hadn’t acted unfairly in adding a marker with the fraud prevention agency as it was clear that the income information submitted on the initial application was incorrect. The investigator concluded that there was insufficient evidence to show exactly what happened at the time of the application. But she didn’t think Halifax had done anything wrong and couldn’t fairly ask it to remove the marker.

Miss J disagrees with this so the case has come to me to make a decision. She maintains that a broker made the application and that she submitted the genuine documents to the broker. Miss J says that she did not make the application over the telephone and did not

submit any fraudulent evidence. She has provided a copy of screenshots from her email account; a letter from a support worker stating that Miss J told him in December 2019 that she had been made aware that the mortgage broker she met wasn't genuine which had caused many problems for her; and letters from three witnesses – one who states they were with Miss J when she met the broker at the event, one who states they were with Miss J when she gave the broker legitimate figures and one who states they went to meet the broker with Miss J on one occasion.

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 and I've explained these further below.

Fraud prevention databases play an important role in the financial services sector, allowing the sharing of information with financial businesses to protect themselves and their customers from fraud. However, the consequences for an individual of being added to a database can be severe, so it's important that a marker is only entered where it can be justified.

In order to apply a Cifas marker, a business must have reasonable grounds to believe that fraud has been committed or attempted, and there must be clear, relevant and rigorous evidence such that the business could confidently report the matter to the police should it choose to do so. There are various fraud offences, but a common feature is that a financial business has found dishonesty in the information supplied by the customer.

I've taken this into account when looking at Miss J's case. Having done so, I'm satisfied that Halifax didn't act unfairly when it placed the marker on the Cifas database.

Halifax's concerns were based on the fact that it suspected false employment and income details were declared as part of Miss J's mortgage application. I've listened to the call between Miss J and Halifax in September 2019 when it calls to ask about the information provided in the application. During this call, Miss J tells the advisor that she hadn't heard of the company entered as her employer during the application process and provides the details of her actual employer. She also asks if the application could be resubmitted with the correct details.

In light of the above, I'm satisfied that the information provided in the application was false.

I've gone on to consider whether Miss J provided her genuine employment and income details to a broker who went on to provide the false details to Halifax.

When Halifax was unable to verify the information in Miss J's application it contacted her to ask for information. When she claimed that a broker had posed as her and submitted false information, Halifax asked her for more information about this and Miss J provided some screenshots from her email account and details of the broker. Halifax was unable to trace the broker with the details provided and did not accept that the screenshots evidenced that she had sent the genuine information to a broker.

I note that Miss J provided a name, number and company details for the broker she says she used. However, the company said that they did not have a broker with those details and Halifax was otherwise unable to trace the broker.

Whilst I accept that Miss J says that she was asked to upload documents, she hasn't provided any details of where she uploaded them to.

Miss J has provided this service with some screenshots which she says confirm her correspondence with the broker and that she provided her ID and genuine income at the outset. These appear to be the same screenshots provided to Halifax. I have considered the

screenshots but these only show an email draft to herself dated 10 June 2019 with some documents and photos attached. Miss J has not provided a copy of any email she sent to a broker with these documents at the relevant time. Likewise, I have seen no independent evidence of any correspondence or communication between a broker and Miss J.

I understand that Miss J says that she reported the fraud to the police, FCA and other relevant agencies. I can see that she also told a healthcare worker about the fraud in December 2019. However, I don't think that Miss J telling others that there was a fraud in itself provides evidence that there was in fact a fraud. I also have to bear in mind that this was after she was advised by Halifax that it had not been able to verify the details on the application and was told by the advisor to report the matter if a broker had posed as her.

I have also considered the statements Miss J has provided from her three witnesses who say respectively that they were present when she met the broker, when she gave the broker the correct details and when she went to meet the broker on another occasion. These statements were not provided to Halifax at the time and were provided to this service in August 2022, some three years after the events in question. In any event, I still don't consider that any of these statements provide independent evidence that Miss J gave a broker her genuine employment information and that the broker then submitted false information to Halifax on Miss J's behalf.

As set out above, I am satisfied that the information provided in the application was false. Halifax asked for clarification around this issue and I'm satisfied that it had reasonable grounds to suspect that it had received false information from Miss J in support of an application and that it applied the marker fairly to the fraud prevention database. Having received further information since the marker was applied, I am of the view that there is insufficient evidence to demonstrate that someone other than Miss J provided the inaccurate information. So I am also satisfied that the grounds Halifax had for applying the marker remain and I won't be asking it to remove this.

In light of the above, I don't think it was unfair that Halifax put the marker on the Cifas database and I don't require it to take any further action.

My final decision

For the reasons I've explained above, I don't uphold this complaint and don't require Bank of Scotland plc, trading as Halifax to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 10 November 2022.

Rachel Ellis
Ombudsman