

The complaint

Miss M complains Startline Motor Finance Limited registered a marker against her at CIFAS, the national fraud database.

What happened

In 2019 Miss M applied for finance through a broker, who approached a number of lenders including Startline. One of those lenders agreed to lend to Miss M so she took out finance with them. Startline didn't offer Miss M finance and says that when she gave it her address history, she left off an address which had negative information linked to it. It registered a marker against her at CIFAS for application fraud, on the basis of an undisclosed address.

In 2022 Miss M applied for finance again and her application was turned down. Miss M says she couldn't understand why and having looked into things she says she discovered the marker that Startline had recorded against her. Miss M complained to Startline and said, amongst other things, that she hadn't lived at the address in question since she was a child and had only been asked to disclose addresses she'd lived at in the previous three years.

Startline looked into Miss M's complaint but didn't uphold it. Startline said that it had evidence that she'd been linked to that address after 2016 and it was an address with adverse information against it. The adverse information in question is a CCJ although Startline hasn't said in whose name that CCJ is. Miss M was unhappy with Startline's response and so complained to us.

One of our investigator's looked into Miss M's complaint and upheld it. They said that Startline hadn't investigated the matter or provided evidence a fraud or crime had been committed. They said that they hadn't even tried to speak to Miss M to see if the omission was intended or a simple mistake. They recommended £200 in compensation and that the marker be removed without delay.

Startline didn't agree with our investigator's recommendations saying that the information Miss M had omitted would have had a material impact on her application's assessment. Startline also said that CIFAS had agreed that it had discharged the burden of proof needed in order to register a marker. So I was asked to consider this complaint.

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 seen Miss M's credit file, I'm satisfied that a business that she has a bank account with linked her to the address that Startline says she didn't disclose, and that she was still linked to that address in 2016. I'll refer to the business she has a bank account with as B in the rest of this decision. So, I can understand why Startline says she didn't disclose an address she'd lived at in the three years prior to her application.

Miss M has told us that the address in question is a family address and that she lived there when she was at school having moved from her Mum to her Dad. I can see that Miss M has updated her address several times since 2009 and that she gave B her Mum's address in 2017 and has given B two more addresses since then. One of those is an address she's recently moved into – in June 2021 – and where she currently lives. I'm satisfied that the other address belongs to a friend who she lived with temporarily. In short, I'm satisfied that Miss M has moved around several times over the years and, having spoken to her further, that she didn't always update her address straightaway.

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 Miss M failed to mention an address on her 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 Miss M or asked for clarity before adding the marker – and it really should have given her the opportunity to explain herself. Further, despite our investigator's requests, it has not provided basic evidence such as who the adverse information relates to – 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 Miss M 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" Miss M had tried to commit fraud simply because the missing address had adverse information linked to it.

Miss M says she hasn't lived at the address in question since she was at school and that she still has access to it as it's a family address. She says she's moved around quite a bit and hasn't always updated her addresses straightaway. Miss M's testimony seems broadly plausible. It's reasonable that she could have made a mistake and not disclosed the address in question because she'd not lived there for some time, not least if she was moving around. I am, of course, conscious that it is also a plausible possibility that Miss M 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 substantiate 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'm going to require Startline to remove the marker in dispute.

I've considered the issues Miss M has faced since the marker was added. She explained she had difficulties getting finance in 2022 – before then she wasn't even aware of the marker.

Putting things right

Having considered everything Miss M has said, I don't think the compensation our investigator has recommended is unfair or unreasonable. So, I'm going to require Startline to pay her £200 in compensation in addition to removing the marker in dispute.

My final decision

My final decision is that I require Startline Motor Finance Limited to pay Miss M £200 in compensation and remove the marker in dispute in full and final settlement of her complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 8 March 2023.

Nicolas Atkinson
Ombudsman