

## The complaint

Mrs L complains that Yorkshire Building Society has added a marker about her to CIFAS, the national fraud database.

## What happened

Mrs L says that she came to this country in October 2021 as a student. She says she was told that she needed name and address identification to open an account. And she was told by someone that if she paid them £300 she could be added to a bill at the address where she was living. She provided this Council Tax document as proof of address to YBS. Her account was opened but then closed without explanation from YBS. And she later found out that a marker had been added at CIFAS because she had provided a false document. She says she didn't know that at the time and believed this to be the way things worked.

YBS said it hadn't made a mistake. It said that when Mrs L had made an application for an account on 11 October 2021 she'd agreed to its terms and conditions. And so that necessary checks would be made about her identity and to verify the information provided. The proof of address wasn't a genuine document and so the account was closed, and the marker added. The reason was for 'false documentation'. It said it understood Mrs L had moved to this country and this would be stressful and require adjustment. But that *"paying a 3<sup>rd</sup> party a large sum through an unofficial channel to provide a Government letter was unlikely to be authentic or at least should've been checked further by contacting the council."*

Our investigator recommended that the complaint be upheld, and the marker removed. The document was 'fake' but he didn't think YBS had done enough to show that Mrs L purposely acted fraudulently. Mrs L had said she didn't know the bill was fake and it wasn't uncommon that people coming to live in this country are offered help from support groups. Mrs L believed that because she was contributing to bills at the address she was staying that she was added to this bill. He didn't think that she had been dishonest. And this marker meant that she was being penalised for the actions of the person providing the document.

YBS didn't agree. It said that its investigation hadn't highlighted any vulnerabilities for Mrs L which resulted in her providing a false document. She'd stated in a letter that she'd arrived in the country on 3 October 2021 and said she'd gone to the address in question. While she'd said she asked questions before on a social media group she also indicated she'd been told by someone at the address that she wouldn't be able to get a bank account without a proof of address. She paid a fee for her name to be added onto a document for a service she hadn't had or paid for. Within a week of arriving here she'd a document dated 7 September 2021 in her name only for Council Tax for 2021 to 2022. The bill confirmed a payment of £479.05 which she'd not made. It considered she was aware that this was a false document. The standard requirement to provide genuine identification was also present in the country she'd come from.

## *my provisional decision*

I issued a provisional decision on 1 December 2022 saying that I wasn't intending to uphold the complaint and allowing time for any further comments or evidence. I set out what I said.

I needed to consider whether the report to CIFAS was made fairly. On this point, YBS needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

It's not in dispute now that this Council Tax document wasn't genuine and was used by Mrs L for verification of her address to open an account. On the face of it that's sufficient for YBS to consider grounds for registering a marker at CIFAS for a fraudulent application using a 'false document'.

Having said that it didn't ask Mrs L for her explanation at the time, and it has since been able to consider this and the surrounding circumstances.

In my view Mrs L did bear a responsibility for her application. Based on her explanation she knew she needed to be able to verify an address. There is no evidence to support that she was at the address she says. But on what she says she'd been there for a matter of days – and I noted her leave to enter card for the United Kingdom had a date of 7 October 2021. She'd clearly been through an official process to apply for a visa and provided the necessary documentation for that.

I didn't think it's reasonable for her not to look at the document she was presenting. As YBS says it was dated about a month before she'd arrived in the country. It showed that she'd paid an amount that she hadn't done. And that she alone was responsible for Council Tax from 2021 to 2022 on what seemed for her to be temporary accommodation. She knew that she needed to show that she lived there and that this was the purpose of the document. She'd paid money to a third party rather than to the Council. Frankly I was struggling to see how Mrs L could reasonably think that this was a genuine document. At best I thought she knew that this had been 'created' to provide something she had to have to open an account. And while she may have been told that this was acceptable this seemed to come from an individual she didn't know well and didn't for example seem connected to any group that could provide legitimate advice.

Mrs L was a student, and I understood her desire to get an account. I accepted that she says this was a mistake on her part which she now regrets. And that's especially because she thinks that this is stopping her opening an account elsewhere. But I couldn't see that YBS has made a mistake in adding the marker as I thought it's followed guidance from CIFAS. And that assessment hasn't changed in light of all the explanation now from Mrs L. While I knew our investigator had asked it if it will take a view based on the impact of the marker for Mrs L, it's declined to do so as a gesture of goodwill.

YBS says that it applied the CIFAS marker because Mrs L used a fraudulent document to make an application. So, I'd looked at whether YBS was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that YBS needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mrs L's account of events and the evidence YBS has provided, I was satisfied that YBS had sufficient evidence for the CIFAS marker to be recorded for the reasons I'd given. And so, I didn't have a basis to find it made a mistake or acted unreasonably.

## **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.

YBS didn't make any further comments.

Mrs L told our investigator how disappointed she was at my provisional decision. And that she'd paid money towards a bill and not for the document. She said that anyone can pay a bill for someone else in her home country. He set out for her the stage we'd reached in our process and that she could send in any more evidence before I made a final decision.

Mrs L sent two visa pages from passports relating to her, and I understand her husband, and which appear to refer to some currency amounts dated 30 September 2021. And also, some examples of the group chat she'd referred to. She said she wasn't able to show a specific contact that had been involved here.

I've considered carefully what Mrs L has said. The group chat she refers to has entries around accommodation and I understand exchanging money and seems to in the main relate to September 2022.

I don't have anything specific as to what she may have been told in and around October 2021, and that she did pay money towards a bill at an address she was living at. In any event the Council Tax document clearly didn't tie up to what she says was the position for the reasons I set out in my provisional decision. And it was her responsibility in using this in support of her application for an account.

I'm afraid I don't find a basis to change my initial findings. This was a clearly fraudulent document and I think Mrs L reasonably knew it didn't reflect the true position. I set out the test for a CIFAS marker and I think YBS had grounds to apply it. So, I still don't have a reasonable basis to require YBS to remove it. I understand what Mrs L says about the consequences of the marker for her. If she doesn't accept my decision she remains free to pursue this in court subject to any relevant time limits.

## **My final decision**

My decision is that I do not uphold this complaint.

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

Michael Crewe  
**Ombudsman**