

The complaint

Mr K complains that TSB Bank plc unfairly recorded a marker against him with CIFAS, a fraud prevention agency, following a mortgage application.

Mr K has made his complaint via a representative I'll call R.

What happened

In January 2023, Mr K applied for a joint mortgage with TSB. During the application process, TSB requested evidence of Mr K's income in the format of P60s and payslips. Upon receipt of those documents, TSB declined the application and recorded a marker with CIFAS.

R complained to TSB on Mr K's behalf. They complained that:

- Mr K had not received any requests from TSB to submit further information or justify himself to make his position clear.
- TSB had not contacted Mr K's employer to confirm his employment or salary.
- Any discrepancies in the tax records were the responsibility of Mr K's employer and he can't be held responsible if any tax amount was not reported to Her Majesty's Revenue and Customs (HMRC).
- Mr K is an un-sophisticated banking customer and the information marked on the CIFAS report is unfair when he hasn't been given the chance to justify himself.
- TSB didn't have sufficient evidence to record a CIFAS marker. The CIFAS principles state that a member can only record a fraud marker if it's supported by evidence and meets the 'four pillars' of their standard of proof.

TSB issued a final response letter. They said they were satisfied they had not made a mistake. Part of the application process required P60 documentation to be provided by Mr K. Once all the documents had been received, TSB were unable to verify the details Mr K provided with the independent third-party bodies they use.

R brought the complaint to our service on Mr K's behalf. Our Investigator looked into things and explained that she didn't uphold the complaint.

R requested that the complaint was referred to an Ombudsman, so the complaint's been passed to me to issue a 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.

Mr K has complained that TSB lacked sufficient evidence to record a CIFAS marker against him. As R has pointed out, in order for TSB to record a marker with CIFAS about Mr K, there are certain requirements that needed to be met. Specifically, TSB needed to have

reasonable grounds to believe that a fraud or financial crime had been committed or attempted, and the evidence must be clear, relevant, and rigorous.

Mr K's mortgage application was declined after he'd provided P60s and payslip documents to prove his income. During the application process, TSB were unable to verify those documents with HMRC. Mr K has sent us a copy of a letter he received from HMRC after requesting it as part of the complaint process. The letter sets out his employment history for the tax years 2020 to 2021, 2021 to 2022, and 2022 to 2023. It shows Mr K's employer, as well as his pay and tax paid for each year.

In his application, Mr K only declared income from one employer, and that is the same employer named on the HMRC document for all three tax years. Having considered this document against the payslips and P60 documents Mr K submitted as part of his application, I'm satisfied the pay and tax paid for the years ending 2021 and 2023 are not consistent, and the discrepancies between this evidence and the income Mr K declared on his application are considerable. As a result, I'm satisfied that TSB had reasonable grounds, and sufficient evidence, to apply a CIFAS marker.

R has said that Mr K's tax is paid by his employer, and so if there are discrepancies then they would have resulted from the way his employer has reported to HMRC. They said that's not Mr K's fault. And TSB should have queried the discrepancies with Mr K or his employer before applying the marker, as he didn't have the opportunity to justify himself.

I've not seen any evidence to suggest that TSB did ask Mr K, or his employer, about the discrepancies they found when reviewing Mr K's application. However, over the course of this complaint and investigation Mr K has not provided any justification for the discrepancies, nor provided anything from his employers to explain what's happened. So I think even if TSB had discussed their concerns with Mr K at the time, I'm not persuaded it would have resulted in a different outcome.

Whilst I appreciate what Mr K has told us about the impact this marker has had on him, for the reasons I've explained, I can't reasonably require TSB to remove it based on the information available to me.

My final decision

Considering everything, for the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 1 February 2024.

Kathryn Billings
Ombudsman