

The complaint

Mr A has complained J D Williams & Company Limited lodged a fraud-related marker on the industry fraud database, CIFAS, in his name.

What happened

In May 2021 Mr A bought two mobile phones using his account with J D Williams. As he'd changed his mind about them, he's told us he returned both phones to J D Williams. J D Williams was concerned they weren't returned the models they'd originally provided to Mr A. They terminated his account and added a fraud-related marker on his record at CIFAS on the basis of *misuse of facility*.

Mr A complained after he'd managed to get a refund for one phone.

J D Williams felt they had sufficient evidence to lodge a record with CIFAS and refused to remove this. Mr A brought his complaint to the ombudsman service.

Our investigator reviewed the evidence and believed this showed J D Williams had sufficient evidence to lodge the marker. She wasn't going to ask J D Williams to do anything further.

Mr A disagreed with this outcome and was concerned our service was accusing him of lying. He's asked an ombudsman to consider his 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 done so, I've reached the same outcome as our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

"There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.

The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police."

So J D Williams must be able to provide clear evidence that an identified fraud was being committed and Mr A was involved.

I've seen the evidence provided by J D Williams. This confirms that J D Williams received the two handsets back from Mr A but there was sufficient likelihood that these weren't the handsets originally provided. I've reviewed this evidence in total and see no reason to doubt what J D Williams has shown us. I also believe the chances of two separate phones being intercepted and delivered to Mr A in this condition is unlikely (despite recent press coverage of this issue).

J D Williams has also shared the history of Mr A's account with them. I can see he had a history of claiming non-delivery of high-value goods so I can understand J D Williams's suspicions of Mr A. The requirement on J D Williams is for evidence to go above mere suspicion and I'm satisfied they've supplied this to us.

I know Mr A disputes this but overall I'm satisfied that J D Williams had sufficient clear evidence to lodge the CIFAS marker.

My final decision

For the reasons given, my final decision is not to uphold Mr A's complaint against J D Williams & Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 February 2024.

Sandra Quinn
Ombudsman