

The complaint

Mr S complains that Experian Limited is failing to stop his credit file being searched by organisations that he has no financial connection with.

What happened

Mr S explains that his job means he has to assume that searches are being carried out by foreign state bad actors pretending to be legitimate businesses.

Mr S says Experian has refused to block new organisations searching his credit file unless he pays a monthly fee. He wants Experian to block all searches by businesses not already listed on his credit file without charge.

Experian says it is the responsibility of the business carrying out the credit search to obtain Mr S's consent to do so. Experian says if Mr S thinks a third party has carried out a search without his consent, he should speak with the third party.

Experian has told Mr S that it cannot put a complete block on third parties accessing his report but has added a password notice of correction as an extra layer of security. And Experian has said that Mr S can pay to add CreditLock to his account which would stop certain credit applications.

Our investigator didn't recommend that Mr S's complaint be upheld. He thought Experian had fairly followed the guidance laid down by the Information Commissioner's Office (ICO) which says that while a consumer can report unrecognised searches on their credit file, a credit reference agency (CRA), does not have to block further searches.

Our investigator said that if a CRA blocked all types of searches, this could lead to a consumer becoming untraceable.

Mr S disagreed with the investigation outcome. He said the CRAs don't have a legal right to process data for every individual in the UK. Mr S says that because of the work he carries out, processing of data can be stopped if it causes unjustified harm.

Our investigator went back to Mr S to explain that our decisions may be different to those of the court or regulator. He still thought Experian had followed standard practice when processing data. And that if Mr S remained concerned, he should approach the ICO.

Mr S is still unhappy with the outcome. He says his credit file has been breached on numerous occasions and Experian has done nothing to prevent further breaches. He wants Experian to block searches by organisations not currently listed on his credit file. And he urges the Financial Ombudsman to consider the threat to national security that such breaches can pose.

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.

It's not the role of the Financial Ombudsman to decide if a business has breached data protection laws – that falls to the Courts or the ICO to decide. And we can't regulate or discipline the businesses we consider. We can however consider whether a business has treated its customers fairly.

When deciding what is fair and reasonable, I must consider the relevant UK law and regulations, regulator's rules, guidance and standards and industry good practice. So, I have considered guidance from the ICO when deciding whether Experian has acted fairly.

I appreciate Mr S thinks that Experian does not have a legal right to process data for every individual in the UK and that there are instances when processing should be stopped. Mr S says that because of the sensitive nature of his work, foreign state bad actors sometimes search his credit file and then impersonate the organisations listed on a credit file to target him. So, Mr S would like Experian to prevent searches by any third party which does not already have a financial connection to him.

I can understand Mr S's concerns about his data but as a CRA, Experian is entitled to process personal data about customers on behalf of banks and other financial organisations. And the Financial Conduct Authority continues to give Experian permission to provide credit references. To do so, Experian needs to be able to store personal information and provide relevant data to businesses who require it to make lending decisions or carry out identity checks. So, I can't conclude that Experian has acted unreasonably when it says it won't routinely prevent third parties from viewing Mr S's data.

Although Experian does offer a paid service called CreditLock, it's my understanding that this would not prevent the kinds of searches which Mr S is most concerned about – soft searches being carried out. Soft searches are often used for insurance quotations and identity checks, so they don't impact your credit history and are not visible to other lenders. Instead CreditLock is designed to prevent certain credit applications going through for things such as mortgages or credit cards. So, I can't say that Experian is refusing to place a block on all searches simply because Mr S is unwilling to pay.

If Mr S notices any searches in the future which he doesn't recognise, he can raise this with the third party involved as well as with Experian. I can see that when Mr S told Experian about a soft search he didn't recognise in late November 2023, it removed the information. I think this was a fair way to respond to Mr S's concerns.

As our investigator recommended, if Mr S remains concerned about the way in which Experian processes his data, I would suggest he contact ICO directly if he hasn't already done so.

My final decision

For the reasons explained above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 May 2024.

Gemma Bowen
Ombudsman