

The complaint

Mr H complains that Barclays Bank UK PLC unfairly made a report about him to a fraud prevention database in connection with a mortgage application.

What happened

Mr H applied to Barclays for a mortgage in 2019. Barclays declined his application and reported Mr H to CIFAS, a fraud prevention database. It said that he had provided inaccurate information in connection with his application, particularly relating to his address history.

At the time, Mr H was unaware of the marker. He discovered it in 2020 when his limited company was refused a bounce back loan. Since then, Mr H has complained to Barclays about the marker several times. At first, Barclays maintained that it had acted fairly and refused to remove the marker. But it agreed to remove it in late 2022.

Mr H wasn't happy with that. He said that Barclays should never have made the report in the first place. He wanted it to compensate him for the financial losses that he said resulted from the marker – including the refusal of the bounce back loan, which he said led directly to the insolvency of his business. He said that he had also been refused other personal and business lending, including re-financing other mortgages. He estimated his total losses at around £600,000. And he said it had caused him considerable upset and stress, as well as the investment of time in trying to get the marker removed.

Our investigator didn't think that Barclays had shown that it had reasonable grounds for reporting Mr H to the database. He said that it should make sure all records relating to the application are removed, and that Barclays should pay Mr H £300 compensation.

Barclays accepted that, but Mr H didn't think £300 compensation fairly reflected either his financial losses or the inconvenience he'd been put to. So the case comes to me for a final decision to be made.

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.

The fraud prevention agencies play an important role in combating fraud in the financial services industry. But it's important that any reports to the databases are accurate and justified. CIFAS's guidance to its members makes clear that a report is only justified where there is reasonable suspicion of fraudulent activity such that a report could be made to the police or other authorities (whether or not such a report has actually been made).

In this case, the report Barclays made to CIFAS records that it found that Mr H had provided false information about the amount of time he had spent living at his address. Mr H says that he provided accurate information, but that the Barclays mortgage adviser he spoke to must have made an error in recording what he said.

Mr H complained to CIFAS directly in 2022, and following CIFAS's review Barclays removed the marker. Mr H now requires it to compensate him for his losses.

Unfortunately neither the application documents nor the recording of the phone conversation with the adviser are now available. There are also limited records of the reasons for the decision to record the marker in 2019 – Barclays has given us its reasons for doing so, but not the evidence supporting those reasons. And there are limited records of the reasons for its removal in 2022. Though Barclays has confirmed that it took the view at that time that the evidence did not justify the marker, it doesn't have details of that decision either.

Barclays hasn't therefore shown that the marker was justified, either at the time it was recorded or later. It accepted our investigator's view that the complaint should be upheld and it should pay £300 compensation. What I now need to decide is whether that goes far enough.

Putting things right

I'm afraid I'm not persuaded that Mr H himself has suffered any direct financial losses for which it would be fair to require Barclays to compensate him. The application for a bounce back loan was made by his limited company, not by Mr H himself. A limited company is a separate legal entity to its directors and therefore any losses were incurred by the company, not Mr H. The company is not party to this complaint and I cannot make an award to Mr H for losses suffered by a third party.

Mr H also says that he suffered loss himself – which relate to inability to re-finance his mortgages and the loss of opportunity to profit from property development through inability to raise finance.

But I'm not persuaded that it would be fair to make an award here either. Any losses from property development are essentially speculative – they are not losses Mr H actually suffered, rather they are profits he could potentially have made had he had the opportunity to finance those projects. And I don't have any evidence to support those profit projections.

I also bear in mind that Barclays didn't just record the CIFAS marker, it refused his mortgage application. It was entitled to do that; no lender has to lend. Nor does it have to disclose the reasons for a refusal to the applicant. In this case, the refusal of the mortgage application wasn't solely based on the reason for recording the CIFAS marker. I'm not therefore persuaded that Barclays would have lent to Mr H even if it hadn't reported the application to CIFAS. I haven't seen any evidence of applications Mr H made to other lenders which were turned down solely because of the marker. In the circumstances, I'm not persuaded its more likely than not that Mr H would have obtained the lending he wanted even without the marker.

However, I can see that the existence of the marker has caused Mr H a great deal of upset and frustration. Barclays has now agreed to pay him £300 compensation, and I think that's fair.

My final decision

My final decision is that Barclays Bank UK PLC should:

- Remove records of this application from fraud prevention databases; and
- Pay Mr H £300 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or

reject my decision before 3 October 2024.

Simon Pugh
Ombudsman