

The complaint

Mr P has complained BMW Financial Services (GB) Limited lodged a fraud-related marker on the industry fraud database, CIFAS, in his name.

What happened

In 2023 Mr P realised there was a CIFAS marker lodged against his name based on an application made for finance. He complained to BMW as he said he'd never made any application to them for car finance.

BMW believed they had sufficient evidence to lodge the CIFAS marker. This was based on the application made by Mr P which hadn't been complete. BMW showed that Mr P had not mentioned a previous address where County Court Judgements were present on the credit record. BMW wouldn't remove the marker.

Mr P complained to our service.

Our investigator reviewed the evidence and believed this showed BMW had sufficient evidence to lodge the marker. He wasn't going to ask BMW to do anything further.

Mr P disagreed with this outcome. He's asked an ombudsman to consider his complaint. In addition he provided evidence from BMW which suggested they'd lodged no adverse data on his credit record.

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:

“That there are reasonable grounds to believe that a Fraud or Financial crime has been committed or attempted.

That the evidence must be clear, relevant and rigorous.”

BMW must be able to provide clear evidence that an identified fraud was being committed and Mr P was involved.

I've seen the evidence provided by BMW. This confirms that BMW received an application for finance in 2018 from Mr P. They noted information missing from Mr P's application. This was specifically a previous address which BMW's evidence showed Mr P had been living at. This address showed County Court Judgements were present which is why they believed Mr P had deliberately missed this address from his application.

Mr P has been adamant that he never made any applications for credit with BMW or another

car finance company who also registered a CIFAS marker. I've considered what Mr P has told us. But he hasn't explained how this could have happened in his name.

I also note most of the application details that I'm aware of – name, address, employment details, date of birth – match those of Mr P. That doesn't mean definitively Mr P must have made the application but looking at all the evidence, I think this is most likely.

The requirement on BMW is for evidence to go above mere suspicion and I'm satisfied they've supplied this to us. I know Mr P disputes this but overall, I'm satisfied that BMW had sufficient evidence to lodge the CIFAS marker.

It's worth noting that CIFAS markers remain on someone's record for six years. This means this will fall from Mr P's record this November. I can confirm that CIFAS markers are separate from credit records. CIFAS is a fraud-related industry database, searched by financial institutions when reviewing customer applications.

Mr P has shared his recent correspondence with BMW. They confirmed they'd not placed any adverse data on his credit record. I don't believe BMW were incorrect in saying that as Mr P doesn't hold a credit agreement with them. I appreciate why he may have been confused by this but this is separate from the CIFAS marker.

My final decision

For the reasons given, my final decision is not to uphold Mr P's complaint against BMW Financial Services (GB) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 September 2024.

Sandra Quinn
Ombudsman