

## **The complaint**

Ms L has complained HSBC UK Bank plc won't remove fraud-related markers they've lodged in her name.

## **What happened**

Ms L held accounts with other banks. She was told her main account was being closed as they'd discovered a fraud-related marker in her name which another bank had lodged.

Ms L contacted HSBC as she'd made previous account applications with them. She discovered they'd lodged three markers with CIFAS that she'd made false applications to them. They wouldn't remove the markers as they believed Ms L had omitted information deliberately to mislead them.

Ms L brought her complaint to the ombudsman service.

Our investigator reviewed the evidence in detail. She noted that Ms L had told us she had difficulties with her memory and had been suffering poor health.

She was concerned that HSBC hadn't met the bar in showing that Ms L had knowingly attempted to commit a crime. She asked them to remove the markers and pay her £100 for the inconvenience caused.

HSBC continued to believe they'd done nothing wrong. They've asked an ombudsman to review Ms L's 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 a different outcome to 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."*

So HSBC must be able to provide clear evidence that an identified fraud was being committed and Ms L was involved.

I've seen the evidence provided by HSBC. This confirms Ms L made three sole account and one joint account applications to HSBC within three years. The address information provided didn't match the information HSBC was able to see when reviewing Ms L's credit record. They rejected all applications and wrote to her confirming this. They also placed CIFAS markers on her record in 2018, 2019 and 2020.

I've reviewed the information Ms L provided to HSBC. There's no doubt she didn't provide full data on previous addresses she lived and the dates she was at different addresses was inconsistent.

However, I can't see at any stage this had any impact on HSBC. They were able to see the full data on her credit record – which identified a previous debt order and five defaulted debts in 2016 and 2017 – and her address history.

I don't dispute Ms L was not truthful with HSBC. Ms L has outlined to us that she has difficulty recalling information, completing automated forms and remembering dates. She's on medication due to her health issues.

However, I'm not convinced HSBC has sufficient evidence that Ms L has been trying to commit a crime. It's clear from her financial history that Ms L has limited funds and finds it difficult to manage her financial commitments. But I'd also expect that she'd have been aware that HSBC would be carrying out a credit search and would expect her history would become known to them so I can't see that she was avoiding her financial past or trying to mislead.

I'd also say the information Ms L provided to HSBC didn't match the other applications she'd made to them. If she'd been trying to commit fraud and falsehoods, I'd have expected her to be slightly more organised and at least be repeating the same false facts. But she didn't.

### **Putting things right**

I appreciate HSBC's concerns here that Ms L has been trying to actively mislead them. But I'm not convinced that the evidence is sufficient to meet the requirements.

I'm going to instruct HSBC to remove the three markers they lodged on Ms L's fraud-related record.

This has undoubtedly caused Ms L some distress and she's continued to have difficulty managing her finances. I believe the £100 our investigator asked HSBC to pay is fair and reasonable.

### **My final decision**

For the reasons given, my final decision is to instruct HSBC UK Bank plc to:

- Remove the fraud-related markers from Ms L's CIFAS record; and
- Pay £100 to Ms L for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 31 October 2024.

Sandra Quinn  
**Ombudsman**