

The complaint

Mr A complains that Startline Motor Finance Limited ('SMF') unfairly recorded an adverse fraud marker against his name.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

Mr A applied to a third-party bank for finance and this application was declined. Mr A was prompted to submit an information request to Cifas (a fraud prevention agency) so that he could understand why his application was declined.

In February 2024, Mr A received a report from Cifas. It revealed that SMF had loaded a fraud marker against him for providing material falsehoods as part of an application submitted to it in February 2023.

Mr A lodged a complaint with SMF as he contested the marker it had loaded against him. But SMF disagreed that it'd loaded the marker unfairly and didn't uphold Mr A's complaint.

Mr A remained unhappy with SMF's response, so he came to our service for an independent review. When our service contacted SMF to request its evidence, it changed its position on the complaint and decided to remove the marker. It admitted there had been an error in recording the marker.

Mr A told our service that the marker had a detrimental impact on him. He said the marker caused him to fail vetting with his employer and he risked losing his job. He was also subjected to failed finance applications and higher insurance premiums. He added that he felt he'd been stereotyped and treated unfairly by SMF.

An Investigator considered the evidence and testimony provided and recommended that SMF pay £300 for the distress and inconvenience caused. SMF agreed to pay the amount recommended, but Mr A disagreed as he felt this didn't fairly reflect the impact the marker had on him.

As Mr A disagreed with the recommendations set out by the Investigator in their assessment, the matter has now been passed 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.

One of the relevant considerations here is set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards regarding this complaint are:

1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
2. That the evidence must be clear, relevant and rigorous.

My interpretation of these standards is that a member cannot simply load a marker against an individual based on mere suspicion. It must be able to meet a higher bar; in that a customer was likely a witting participant in the alleged conduct.

It is no longer disputed here that the marker subject to this complaint was loaded unfairly. SMF has admitted that it no longer deems the documents provided as part of the application to be false. And I'm persuaded from the evidence that I've seen that SMF could have done better—at the point of raising its suspicions—to satisfy itself that the documents were indeed false.

What impact did the marker have on Mr A?

Mr A has clearly demonstrated that he has been impacted by the application of this marker. He raised his concerns with SMF and felt these concerns were dismissed prior to coming to our service for an independent review. He has also had the addition of stress placed on him over the fear of his employment being impacted by the marker. This has clearly caused him emotional detriment and inconvenience.

However, I don't find all of the evidence Mr A has provided as persuasive when considering the impact caused. That isn't to say that I don't believe what Mr A has told our service, but that I'm not persuaded from the evidence he's provided that the application of the Cifas marker can be directly linked to the detriment he has alleged.

Mr A has provided our service with, what he says, is evidence that a vetting application he carried out through his employers was rejected based on the Cifas marker SMF had applied. But I can't say this has sufficiently been demonstrated.

Mr A's initial vetting failure in October 2023 alludes to 'financial vulnerabilities' and recommends he be referred on to sources of support within the organisation. Had Mr A's vetting been impacted by the fraud marker recorded, it's likely Mr A would have been made aware of this. But Mr A has told our service that he only became aware of the marker in 2024, when he was rejected for a finance application and directed to Cifas.

Mr A has also provided evidence of failed vetting in March 2024, causing a rejection of his employment application. The reasons given for this was due to Mr A failing to disclose relevant material in respect of his application – and that this undermined the perception of his honesty and integrity. So this was clearly in relation to a failure to disclose, rather than the discovery of, adverse information. I cannot be satisfied here that there is a direct link to the failed vetting application and the marker applied to the Cifas database.

Mr A has also told our service that his premiums on his car insurance were higher due to the marker that had been placed. But again, I've seen no evidence to support this assertion.

I do however accept that Mr A has likely been rejected for financial accounts because of the marker placed. While it is also the responsibility of the rejecting business to ensure the information it relies upon is accurate, the marker no doubt impacted the risk assessments being made by the third-party businesses and at least partially contributed toward the detriment caused.

Discrimination

As an Ombudsman, I am unable to make a finding on whether Mr A has been discriminated against under the Equality Act 2010: only a court can do that.

I can understand why Mr A feels he was treated differently here, as he has clearly received poor customer service. I can see this stemmed from documents he'd submitted in support of his application having minor discrepancies in them. SMF has admitted that this was an error and has agreed to compensate Mr A for any distress and inconvenience caused.

I cannot find, from the evidence available to me, that Mr A has been treated differently due to his name or background.

Putting things right

For the distress and inconvenience caused, SMF should pay Mr A £300 in compensation. It should also remove any adverse fraud markers it has recorded against Mr A regarding this complaint.

My final decision

For the reasons I have given above, I uphold this complaint and direct Startline Motor Finance Limited to:

- Remove any outstanding adverse fraud markers recorded against Mr A relating to this complaint.
- Pay Mr A £300 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 22 April 2025.

Stephen Westlake
Ombudsman