

The complaint

Mr O complains that JBR Capital Limited (JBR), incorrectly registered a Cifas fraud marker against him.

What happened

Mr O said he realised in September 2023 that a Cifas fraud marker was applied to his credit file in November 2021 after he applied and was declined for car finance. Mr O said he was told that the dealership believed he supplied bank statements which had incorrect information on them.

Mr O said the marker was overturned after he raised the issue with Cifas directly. However, Mr O has said the marker has impacted several credit decisions between 2021 and 2023 and that he's lost over £25,000 as a result.

In September 2023 JBR issued their final response to Mr O's complaint. They didn't uphold it as they were satisfied from the information available to them that they had acted appropriately through reporting correct information.

However, in October 2023 JBR confirmed in an email to Mr O that following a further investigation into the issue and having liaised with Cifas they removed the marker from his record on 6 October 2023.

In a further email JBR explained the marker was applied because Mr O's bank was unable to confirm certain information that was supplied during his application. However, whilst reinvestigating the matter, it came to light that the information provided to them by Mr O's bank may have been incorrect.

JBR apologised for any inconvenience but said they were entitled to rely on the verification information provided by the bank. So, they didn't think they acted unreasonably in applying the marker.

Unhappy with JBR's response Mr O brought his complaint to our service for investigation. One of our investigator's looked into Mr O's concerns and concluded that JBR acted fairly with the information they were provided. So, the investigator didn't uphold Mr O's complaint.

Mr O didn't accept the Investigators assessment and asked that his complaint be referred to an ombudsman for a final decision.

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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance

and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

Cifas is a member-based fraud prevention agency with a large database. The database records information to protect financial businesses and their customers against fraud.

When a business is a member of Cifas, it can record a marker against a customer when they believe fraud has been committed or attempted. This type of marker will usually stay on a customer's record for six years and can make it difficult for that customer to take out new financial products.

To file such a marker, JBR isn't required to prove beyond reasonable doubt that Mr O is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. Cifas says:

- There must be reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
- The evidence must be clear, relevant and rigorous.

What this means is that JBR will need strong evidence to show (alleged) that Mr O either committed or attempted to commit financial crime. However, a Cifas marker shouldn't be registered against a customer who has acted unwittingly – there must be evidence of a deliberate fraudulent action.

The relevant finding for me to make is whether I think there is sufficient evidence to meet this standard of proof, to determine whether JBR were entitled to escalate their concerns. Having looked at the evidence JBR provided; I'm satisfied it has met the above criteria.

As part of his application for car finance, Mr O provided JBR with some bank statements. JBR said they had concerns about the validity of the statements and so decided to contact Mr O's bank for further verification. I think it was reasonable for JBR to do this following their concerns. When verifying the statements, JBR were told by Mr O's bank that some of the information on them were incorrect. JBR provided us with the call recording of that interaction in their file submission. As a result of this JBR applied the Cifas marker on Mr O's credit file.

Considering the criteria set out by Cifas, I'm satisfied JBR had reasonable grounds to believe fraud was being attempted as a result of the inaccuracies of the information presented on Mr O's bank statements during his application. I think it was reasonable for JBR to further validate their concerns and then to act upon the information they were given by Mr O's bank.

The evidence they relied on (the information directly from the bank) was clear, relevant and rigorous. JBR had no reason to doubt the information they were given at the time. I'm satisfied this was in line with Cifas guidance.

I acknowledge what Mr O has said, that JBR should have carried out a further investigation before applying the marker, however, I don't think JBR had any reason to doubt the information they were given or to re-investigate something they'd already looked into.

JBR later confirmed that having liaised with Cifas, and following a further investigation, it came to light that the information provided to them by Mr O's bank may have been incorrect. JBR arranged to have the marker removed because of the new information. In the

circumstances, and having considered the information they relied on may have been incorrect, I think it was reasonable for JBR to remove the marker they applied.

Mr O also said he's been declined further finance applications and has lost out on money as his deposit wasn't returned to him by the broker. I acknowledge it's likely the impact of the marker may have affected further lending decisions, however, for the reasons given, I don't think JBR should be held accountable for this. I also haven't been presented with the full details of any financial loss, and I can't see that Mr O has raised a complaint specifically about the retention of his deposit. So, I've not considered this, as part of my decision. I've only considered whether JBR acted fairly when they applied the Cifas marker on Mr O's credit file.

On reflection Mr O may decide to raise a complaint with any third party relating to the loss of funds if he believes it was unfairly withheld from him.

My final decision

My final decision is that I don't uphold Mr O's complaint about JBR Capital Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 5 May 2025.

Benjamin John
Ombudsman