

The complaint

Mr M complains that North Edinburgh and Castle Credit Union Limited (“Castle”) made an entry about him on the CIFAS database in connection with a loan.

What happened

In early 2024 Mr M got a loan with Castle. Around two weeks later Castle was notified that Mr M was entering into a debt management plan. He wanted the loan to be included in the plan. As a result, Castle placed an ‘evasion of payment’ marker about Mr M on the CIFAS database.

The CIFAS database is a cross-industry fraud prevention database which allows financial services providers to share relevant information, subject to safeguards.

Mr M complained to Castle about the marker. Initially it said the CIFAS marker was justified. However, in its May 2024 final response Castle acknowledged it got things wrong. It apologised to Mr M and offered him £50 to resolve his complaint. It said it had arranged for the CIFAS marker to be removed from the CIFAS database.

Mr M remained unhappy so he complained to the Financial Ombudsman Service. He said £50 didn’t go far enough. He said he’d been caused significant emotional distress and inconvenience; that the marker had led to blocks and closures on his bank accounts; and that he’d spent hours on the phone trying to get the marker removed.

Our investigator looked into what happened. He said an ‘evasion of payments’ marker is an option available where a consumer takes out finance without the intention of repaying it. In this case it was clear, given the contact Castle received from the debt management company, that Mr M intended to make payments, but he was unable to meet them in full. He understood that Castle was concerned about how quickly the debt management plan was entered into after the loan was agreed. But he didn’t think that was a suitable reason for applying the CIFAS marker.

Our investigator said that Mr M had provided evidence to show that his main bank account (the one that his salary was paid into) was closed after the CIFAS marker was applied. Mr M told us his back up account was frozen for a week before being closed too. Both these issues appeared to stem from the CIFAS marker. He said that because the relevant business agreed to reverse the closing of Mr M’s back up account after the marker was removed.

Our investigator said it wasn’t typical for a CIFAS marker to result in accounts being frozen, and Castle wasn’t responsible for the actions of other banks. So he couldn’t say that Castle was directly responsible for the closing of Mr M’s bank accounts. However, our investigator said it took Castle two months to agree to remove the CIFAS marker. He thought that Mr M would have been very worried and stressed by that – especially given the closure on his accounts. He also recognised that the CIFAS marker made Mr M’s finances significantly harder to manage – at a time where he was struggling and had sought help.

In the circumstances our investigator said that Castle should increase its compensation by £200. In other words, he thought it should pay him £250 to put this matter right.

Both Mr M and Castle agreed to that outcome. Mr M asked for Castle to pay the compensation into his bank account – something our investigator said was in line with the Financial Ombudsman Service's approach. Castle responded to say that it had credited the £250 to one of Mr M's loan accounts to reduce the outstanding balance.

Mr M wasn't happy about that but Castle wouldn't change its position. So this complaint was passed to me to decide.

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 come to the same conclusion as our investigator. I'll explain why.

There's no dispute that Castle has apologised for what happened and has removed the 'evasion of payments' marker from the CIFAS database. I think that was the right thing to do here.

I say that because the standard of proof for putting a marker on the CIFAS database is that there must be clear, relevant and rigorous evidence of fraud, such that Castle could confidently report the matter to the police or other authorities (whether or not it has actually done so).

The standard required is therefore one of reasonable suspicion, not proof. But there must be evidence of fraud. There are various fraud offences, but a common feature is acting dishonestly for financial gain.

In this case it's clear that Mr M entered into the debt management plan very shortly after he got the loan from Castle. I understand why Castle was very unhappy about that. But the loan was included in the debt management plan and Mr M has made payments towards it. So I don't think it's fair to say that Mr M didn't intend to repay the loan.

Castle accepted what our investigator said in his view and agreed to pay Mr M £250 compensation to resolve this complaint. For completeness I'll say here that I think that £250 is a fair and reasonable amount of compensation for what happened here given the impact on Mr M, the time he was affected by the CIFAS marker and the amount of effort it took for him to get it removed.

The only issue that remains is what account the £250 compensation should be paid to. Mr M has been clear he wants the money paid directly into his bank account. He has provided details of the account he wants the money paid into. Castle feels strongly that doing that wouldn't be fair here. It thinks Mr M must have known his financial position when he applied for the loan. It says it wouldn't have given him the loan if it had known he was looking to enter into a debt arrangement, and that Mr M didn't make a single contractual monthly payment towards the loan. Castle says it has applied the £250 compensation to Mr M's loan account. It says it's a not-for-profit organisation and that the loan has caused a loss to its members.

I understand Castle's position. However, I think the £250 compensation should be paid into Mr M's bank account. That reflects the fact that the payment is being made to reflect the distress and inconvenience Mr M was caused by the CIFAS marker being applied. The

Financial Ombudsman Service usually says that compensation for distress and inconvenience should usually be paid directly to a customer, and I think it's appropriate for that to happen here to. By getting the money directly Mr M will be able use the compensation in a way he sees fit. I think that's appropriate here given the impact of the CIFAS marker on him.

Putting things right

To put matters right Castle should pay Mr M £250 compensation into his bank account.

My final decision

For the reasons set out above, my final decision is that North Edinburgh and Castle Credit Union Limited should pay Mr M £250 compensation into his bank account.

North Edinburgh and Castle Credit Union Limited may debit £250 from Mr M's loan account when it does this, as it says it has already applied the £250 compensation to Mr M's loan account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 January 2025.

Laura Forster
Ombudsman