

The complaint

Miss P complains about a fraud marker that was reported in relation to a finance application with Mercedes-Benz Financial Services UK Limited (“MBFS”).

What happened

As both parties are familiar with the circumstances of this complaint, I’ve summarised them briefly below. Miss P said she applied for car finance in November 2023 but was rejected. She later found out, through her employer, that MBFS had reported a Cifas fraud marker in relation to the application. She said her job was at risk, so she complained to MBFS that it had been unfairly applied.

MBFS said it was satisfied that Miss P had failed to disclose a previous address in an attempt to hide information about debt, and it had met the burden of proof to load the Cifas marker.

Miss P referred her complaint to the Financial Ombudsman. An investigator here reviewed the complaint and said that MBFS had met the standard required to report the marker. She thought it likely that Miss P had deliberately withheld information about her previous addresses in order to improve her chances of getting finance. She didn’t uphold the complaint.

Miss P disagreed and asked for an ombudsman to make a decision. In summary she said:

- She found it difficult to fill out forms as she was dyslexic.
- She had mental health issues and is deaf in both ears.
- She missed out one address which was a mistake and accidental.
- The marker had impacted her mental health, and she was struggling.
- Miss P said she was a single parent and didn’t get any support.
- Her ex-partner stole her car while she was pregnant, and she had to figure out how to manage alone.

The complaint was passed to me to make a 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.

When considering what is, in my opinion, fair and reasonable, I take into account relevant law and regulations; regulator’s rules, guidance and standards; codes of practice; and what I believe to have been good industry practice at the relevant time.

I’ve read and considered everything both parties said, but I’ve summarised the key points here. If I don’t comment on a specific point, it isn’t because I haven’t considered it, but because I don’t think I need to comment in order to reach what I think is the right outcome.

This is not intended as a discourtesy but reflects the informal nature of this service in resolving disputes.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

MBFS hasn't supplied a copy of the credit agreement as it was declined. But I can see that the application was intended to be a hire purchase agreement for the supply of a car which cost around £20,500. I've no reason to think that this wouldn't have been a regulated credit agreement. In reporting the fraud marker, I think MBFS was exercising lender's rights and duties under a regulated credit agreement. That's an activity that the Financial Ombudsman can consider complaints about.

Cifas members, such as MBFS, must adhere to the standards set out by Cifas in its National Fraud Database Handbook.

In order for a member to satisfy itself that an adverse loading is warranted in the circumstances, Cifas requires that its members meet certain standards of proof. These include:

- 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.

This means that the member cannot load a marker based on mere suspicion. It must have clear and robust evidence to support that a financial crime has been committed or attempted, and that the person it intends to load the marker against had witting involvement in this act. It does not however need to go as far as proving this beyond all reasonable doubt.

In considering this complaint my role isn't to prove that Miss P was guilty of a fraud or financial crime. But rather to look at whether MBFS acted fairly and proportionately in reporting the marker. And in the light of the evidence, I've been provided, whether it would be fair and reasonable to remove the marker now.

I've seen the evidence provided by MBFS. It showed that Miss P had declared that she lived at an address which I'll call A since August 2022. It also showed that she declared that she lived at an address which I'll call B from April 2019 to August 2022. MBFS' underwriters looked into the application and conducted a check with a credit reference agency. It said that it found no trace of Miss P at address A, she was not on the voters roll and no credit was in her name. MBFS found that Miss P was registered on the voters roll for 2022-2023 at address B, and there were various credit accounts including a utility account which had defaulted in February 2023. It also found an undisclosed address which I'll call C. This showed that Miss P was registered on the voters roll between 2022-2023. There were also numerous credit profiles, and four of these were in default status. The start dates of the credit were during the three-year period before the application.

The adverse information relating to address C was linked to defaults, which I think Miss P ought reasonably to have been aware of. Failure to disclose an address with negative financial information can amount to a material falsehood in an application. Miss P was responsible for ensuring accurate information was provided to MBFS as part of her application.

Overall, I think MBFS has demonstrated that it completed checks of sufficient depth and that it retained records of these checks. The question in the application about address history is sufficiently clear and unambiguous.

I've carefully considered what Miss P has told us and I'm sorry to hear that she has been going through a difficult time. But what I need to consider is whether MBFS had more than a suspicion or concern that she'd deliberately withheld important information in an attempt to hide information that could have materially affected the success of her finance application. Miss P hasn't disputed that the information she provided was incorrect, or that the addresses she disclosed in the application were accurate. Rather she's said it was a mistake either caused by her mental health or due to her understanding of the question she was asked, because of dyslexia.

The lack of any data at address A and the failure to disclose address C seems key to why the marker was reported. Miss P has told us that she lived at address C for a significant period from May 2019 until August 2022, and she's also told us that she moved to address A in December 2023, which is after the application was made. She's also told us about other addresses she lived at with her ex-partner, but those haven't featured in the information MBFS discovered. I'm not persuaded that Miss P's dyslexia or her mental state at the time would have meant she accidentally or inadvertently gave the wrong information. I've also not seen anything compelling which indicates that her understanding of the question was impaired, or that it was posed in such a way as to be confusing. I think MBFS had serious concerns that she intended to withhold information about address C in order to improve her chance of succeeding with the application, which could be considered fraud.

The requirement to report the marker is for MBFS to retain evidence to show that there are reasonable grounds to believe fraud has been attempted. I can appreciate that Miss P doesn't agree but having considered this evidence, I'm persuaded MBFS has demonstrated it met the bar to load a marker against Miss P's name. I do appreciate that the marker has led to difficulties for Miss P, but I don't find I have grounds to direct MBFS to remove the marker now.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 15 January 2026.

Caroline Kirby
Ombudsman