

## **complaint**

Mr S's complaint against Retail Money Market LTD, trading as Ratesetter (Ratesetter), is that it refuses to remove a CIFAS marker it placed against him.

## **background**

In November 2018, Mr S applied for a loan with Ratesetter. In doing so, he inflated his income, and submitted falsified bank statements to support this. When Ratesetter did further checks, and realised what had happened, it recorded a CIFAS marker against him for application fraud.

Mr J accepts that he provided false information, and doctored statements, as part of his application. But he's very contrite about doing so. He's explained that at the time of the events he was vulnerable, suffering with a gambling addiction, and mental health difficulties. Although he didn't appreciate at the time that he was ill, he can't remember making the application, and doesn't believe he was in his right mind when he did so. He thinks this should be taken into account now by Ratesetter.

He wrote to Ratesetter, explaining in detail his situation, and providing an unreserved apology. He accepted that what he did was wrong, but hoped that with the information he could now provide, Ratesetter would agree to remove the marker.

Ratesetter said it couldn't do this. It said it had taken all of what Mr S had said into account, but that its' CIFAS report was a factual one. And that in making the report it had complied with the four pillars that needed to first of all be met, as per the relevant guidance. So while it was sorry for what Mr S had gone through, it said couldn't change or remove the marker.

Mr S didn't think Ratesetter had treated him fairly, so he brought his complaint to our service.

Our Investigator looked at the evidence, obtaining further submissions from both parties, and concluded that Ratesetter hadn't dealt with Mr S unfairly in declining to remove the CIFAS marker. So he couldn't uphold the complaint.

He explained why the markers exist, what they mean, and what the criteria is for applying them. And he showed why he thought Ratesetter had met that criteria and behaved reasonably.

But Mr S didn't agree, and made further detailed submissions, in which he argued that the four pillars hadn't in fact been met.

Our Investigator considered these further submissions carefully, but explained that they didn't change his view that he couldn't uphold the complaint. Mr S remained unhappy, and felt that his questions hadn't all been answered. So he asked for an ombudsman's review.

## **my findings**

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'm afraid I don't have the answer Mr S is looking for. While I have genuine sympathy for what he's gone through, and admiration for how he's managed to turn his life around, I can't reasonably say that Ratesetter has made a mistake or treated him unfairly.

I know this decision will be deeply disappointing for Mr S. Now he's made significant life changes, he wants a fresh start and feels that with a 6-year marker in place that will hold him back. I entirely understand this. But while I can't dissuade him as to the impact of the marker, I can't say that it's been placed in error, or that it's been unfairly placed.

I'm conscious that I've summarised this complaint in less detail than the parties, and in my own words. I'd like to explain to Mr S that I'm not going to respond to each and every point he's made in response to our Investigator's two views. No discourtesy at all is intended by this. But instead, I've focussed on what I think are the key issues here, and which our rules allow me to do. This reflects the informal nature of our service as a free alternative to the courts.

So if there's something I've not mentioned, it isn't because I've ignored it. That's not the case at all. I've considered everything carefully. But, I'm satisfied I don't need to comment on each individual argument to be able to reach what I think is the right outcome.

CIFAS is a fraud prevention agency. Mr S's name has been registered with it for application fraud, because that's - as a matter of fact - what happened in November 2018. That's not in dispute.

Businesses have an obligation to report application frauds, and I'm satisfied on looking at the four pillar criteria that Ratesetter had enough to record the CIFAS marker at the material time. And I note Mr S doesn't argue that this was the case.

Mr S now argues that, with hindsight, the four pillars haven't been met, one of which is the fact that a false application will lead to non-repayments of credit, and loss to a business. Mr S staunchly says that despite his personal problems, and his addiction, he's never missed any credit payment ever. And that had he been granted the loan he applied for, he wouldn't have missed those payments either. I'm not disputing that, as it's quite true that none of us can ever be certain what would have happened, but I'm satisfied that Ratesetter was justified at the time to hold that concern, and that even knowing what we know now it still wasn't unreasonable for it to do so.

Mr S accepts that Ratesetter was obliged to make the report it did at the material time. But he now wants it to review its position given what he's said about his circumstances. While I can see why he's asking for this, this isn't a situation where mitigation is relevant. It's more factual than that. As a matter of proven, and accepted, fact Mr S made a fraudulent application, and that's what the record now shows. To amend that record wouldn't be right.

Once again, I'm genuinely sorry to hear what's happened to Mr S, and I wish him well for the future. But it wouldn't be fair or correct for me to ask Ratesetter to change the report it made to CIFAS. To do so would be asking it to exercise a discretion it doesn't have.

I know Mr S will disagree, but my role is to assess the evidence and reach an outcome that's fair to **both** parties. I hope I've explained here why I've reached the decision I have.

**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 Mr S to accept or reject my decision before 25 April 2020.

Ashley L B More  
**ombudsman**