

complaint

Mr J complains that TSB Bank plc placed a fraud marker on his record.

background

In June 2015 Mr J applied to switch his current account from another bank to TSB. His application was declined, but he wasn't told why, and Mr J didn't pursue the matter.

In October 2017 Mr J's employer told Mr J that a marker had been placed against his name on the CIFAS database, and he could lose his job as a result. So he got a solicitor involved.

Mr J was told that the marker had been put on the CIFAS database because of information he'd given about where he had previously lived. TSB said the checks it carried out linked Mr J to a default at an address he hadn't disclosed. It thought Mr J had deliberately not told it about living at that address. And it was also concerned about the number of different names Mr J had used in the past.

CIFAS was asked to investigate what happened. It took the view that Mr J had given TSB the information it had asked for (information about where he'd lived in the three years before June 2015) when he tried to switch his current account. So it asked TSB to remove the marker.

TSB did that. But it still thought it within its rights to put the marker on the CIFAS database in the first place.

Our investigator recommended that Mr J's complaint should be upheld. She thought Mr J had been upfront about where he'd lived in the three years before June 2015. She accepted that he'd given incorrect information about the amount of time he was living at the relevant addresses. But she didn't think Mr J had done this intentionally. She said the default TSB was concerned about was registered at an address Mr J was living at more than three years before June 2015. And the default was registered around nine months after Mr J had moved on from that address. Our investigator didn't think Mr J needed to disclose the address where the default was registered, as he was only asked to provide information about where he'd lived in the three years before June 2015.

Our investigator also appreciated that Mr J had used different names in the past. But she said that the names he used were variations of his forename. So she understood why this had happened.

Our investigator recommended that TSB should pay Mr J £200 for what happened. But she didn't recommend that it reimburse him for his solicitor's fees. She said Mr J chose to employ a solicitor knowing that he would be charged for this.

Mr J accepted this. But TSB disagreed. It asked for this complaint to be reviewed.

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've reached the same conclusion as our investigator. I'll explain why.

The point I have to decide in this complaint is whether TSB made a mistake when it put a marker against Mr J's name on the CIFAS database in June 2015. To record information with CIFAS, TSB needed to have enough evidence to make a formal complaint to the police or other relevant law enforcement agencies about Mr J's application to switch his account. CIFAS' website says that before an organisation is able to place a warning on its database they must have carried out checks of sufficient depth to satisfy this standard of proof. It goes on to say that:

Typically, organisations will have found material falsehoods in the personal information supplied on an application, proposal or claim, or in the case of an account, policy or service, and will be able to demonstrate that the behaviour of the customer amounts to fraud. A criminal offence must be identifiable.

I've considered all the information TSB has provided. I understand why it turned down Mr J's application to switch his account. However, it's not clear to me that Mr J intentionally gave TSB false information when he applied to do this and that his actions amounted to fraud. I think it's more likely that Mr J simply made a mistake when he gave TSB incorrect information about the amount of time he spent at the various addresses he was living at in the three years before June 2015. This is in line with CIFAS' decision to ask TSB to remove the marker.

Like our investigator I understand why Mr J was very upset about what happened. It's clear from the evidence he has provided that his job was at risk when his employer found out about the marker. So I've no doubt that finding out about the marker was a very stressful experience for him.

As I don't think TSB had enough evidence to make a formal complaint to the law enforcement agencies about Mr J's application to switch his account, I think it's fair and reasonable for it to pay Mr J £200 compensation for the upset it caused Mr J when it put the marker on the CIFAS database. But I don't think it would be fair and reasonable for me to require TSB to reimburse Mr J for his solicitor's fees. Although I understand why he got a solicitor involved, he wasn't required to do this. And he would've been aware of the solicitor's fees when he decided to do this.

my final decision

My final decision is that TSB Bank plc should pay Mr J £200 to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 11 June 2018.

Laura Forster
ombudsman