

## **complaint**

Mr B complains that Bank of Scotland plc (trading as Birmingham Midshires) placed a fraud marker on his record.

## **background**

Mr B applied for a mortgage with Birmingham Midshires in 2014. His application was declined. He says he didn't think about the application again until another bank ("Bank A") told him that it was going to close his accounts in 2017. At that point he was told that Birmingham Midshires had put a marker against his name with CIFAS, a national fraud database. The marker was put in place because Birmingham Midshires thought Mr B had altered bank statements provided to it in connection with the 2014 mortgage application.

Mr B has denied any wrongdoing. His representative told us that Mr B is in the property industry. He applied for the 2014 mortgage to help a tenant who was struggling to buy a property. The tenant wanted Mr B to buy a property and let it to him for a year, before selling it to him. The tenant told Mr B he wanted to use a mortgage broker he knew as he wanted to give that broker his business, and get the best deal.

Mr B's representative says Mr B agreed to this as "*a favour*" as long as the tenant gave him 25% of the money needed to buy the property. The tenant agreed, and the money from the tenant was treated as a gift. He says Mr B didn't meet or speak to the broker himself. Instead Mr B's business manager sent all the relevant information (including the relevant statements) to Birmingham Midshires. Nor did Mr B have sight of the bank statements.

After the mortgage application was declined, Mr B decided he didn't want to go ahead with the purchase of the property. And he says he lost touch with the tenant.

Mr B wasn't told the bank statements were behind the CIFAS marker until early 2018. He's very unhappy that he wasn't asked more questions about the statements in 2014, or given the chance to defend himself before the marker was applied. His representative says he can't see how the statements were altered. But in any case, he says the important point is that Mr B didn't alter them, or know that they'd been altered.

Our investigator reviewed the available evidence. She understood Mr B's position, but she didn't think Birmingham Midshires made a mistake when it applied the CIFAS marker in 2014 given that the mortgage application was in Mr B's name. So she didn't recommend that it removed it.

Mr B remains extremely unhappy. So he has asked for his complaint to be reviewed. Mr B's representative says that the marker is ruinous for Mr B given his business. He says Mr B has banked with Bank A for over 30 years, and needs it to continue to lend to him. But it won't resume its relationship with him while the CIFAS marker remains in place.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And I don't think Mr B's complaint should be upheld either. I'll explain why.

The point I have to decide in this complaint is whether Birmingham Midshires made a mistake when it put a marker against Mr B's name on the CIFAS database in 2014. To record information with CIFAS, Birmingham Midshires needed to have enough evidence to make a formal complaint to the police or other relevant law enforcement agencies about Mr B's mortgage application. 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 Birmingham Midshires has provided. And I'm satisfied that Birmingham Midshires met the appropriate criteria. I can see that Birmingham Midshires looked at the statements it was sent and contacted the relevant bank to check their accuracy. The relevant bank told Birmingham Midshires the statements had been altered.

Mr B's representative has told us that Mr B was largely unconnected with the mortgage application. He says Mr B didn't meet the mortgage broker or see the relevant bank statements. So it isn't fair that Mr B is affected by any fraudulent activity that the tenant and/or the broker may have been involved in. I appreciate the point he's making. But I have no way of verifying what Mr B's representative has told us. And I think the agreement Mr B says he made with his tenant is very unusual. I'm also conscious that the mortgage application was in Mr B's name. So Mr B was responsible for ensuring that the information that was supplied in connection with it was accurate. As a person with experience in the property industry, Mr B would've known this.

Taking the matter as a whole, I can't say that Birmingham Midshires made a mistake when it put a marker against Mr B's name on the CIFAS database in 2014. I appreciate that Mr B thinks that Birmingham Midshires should've asked him about the statements in 2014, and given a chance to respond before placing the marker. But it wasn't required to do this.

Birmingham Midshires has told us that it isn't prepared to remove the marker from Mr B's record. As I think it was entitled to record it, I don't think it would be fair or reasonable for me to ask it to do anything further to resolve this complaint.

**my final decision**

For the reasons I've given, my final decision is that I don't uphold Mr B's complaint against Bank of Scotland plc (trading as Birmingham Midshires).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 June 2018.

Laura Forster  
**ombudsman**