

## **complaint**

Miss W complains that Black Horse Limited has unfairly recorded information about her with a third party fraud prevention service.

## **background**

In November 2014 Miss W applied for finance with Black Horse through a car dealership. The dealership submitted her application, but Black Horse declined this. Miss W accepted this, as she thought that her credit rating might have been the reason her application was declined.

By November 2017, Miss W had worked to improve her credit rating, but still found that she was being declined for applications, which she couldn't understand. She raised her concerns with a lender, which advised her to contact a fraud prevention agency – CIFAS. Miss W did this and found that Black Horse had recorded information about her in relation to application fraud.

She complained to Black Horse about this. It didn't think it had made a mistake by reporting this information to CIFAS. But it took into account the length of time that had passed and, as a gesture of goodwill, asked CIFAS to stop recording this.

Mrs W didn't think this went far enough and felt that Black Horse should never have recorded this information at all. She brought her complaint to us, where one of our investigators looked into it. He didn't think that Black Horse should've recorded this information, as he felt it could've done more to check the information it was provided before reporting information to CIFAS. He recommended that Black Horse pay Miss W £500, to represent the impact this had on her for the last few years.

Miss W agreed with his recommendations, but Black Horse didn't. It felt it had sufficient grounds to have reported this information to CIFAS and didn't see that it needed to query the information it received from the dealership, as this would've been provided by Miss W. So the complaint was passed to me to decide.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

There are certain criteria a business needs to consider when applying a fraud marker against someone's name. Amongst other things, this includes whether the party involved could have been charged with a criminal offence. CIFAS says in its published guidance:

*Before an organisation is able to place a warning about you on our database, they must be in a position to make a formal complaint to the police or other relevant law enforcement agency. They must have carried out checks of sufficient depth to satisfy this standard of proof.*

*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.*

So here, I need to be satisfied that Black Horse *could* have made a formal complaint to the police or other law enforcement agency *and* that any checks carried out satisfied these criteria. Black Horse hasn't satisfied me of that here.

The reason that Black Horse reported Miss W to CIFAS was because of 'application fraud'. This is described by CIFAS as the making of an application with one or more material falsehoods in the information provided, or the presentation by a customer of false or forged documents.

The checks Black Horse performed showed that Miss W was linked to an address with adverse credit information recorded against it, which hadn't been given to it by the dealership in the application. I can understand why Black Horse felt that Miss W might be withholding this information to improve her credit worthiness. But the criteria set by CIFAS is that checks of sufficient depth must be carried out.

Miss W has been consistent with her explanation and recollections of what happened here. She's told us that she provided her current address at the time to the dealership and gave it the date she moved into that property too. She's said that the dealership needed six years of address history for her, so she also provided the details of her former address too, alongside other information about her income and expenditure.

It's my understanding that the issue with the address was the only inconsistency in the application. Given the fact this had been submitted by a third party and could have easily been a misunderstanding or a mistake by the dealership, I think it would've been fair for Black Horse to query this with the dealership before recording the information it did with CIFAS.

CIFAS information like this can have a huge impact on a customer's financial situation. So, while I wouldn't expect Black Horse to always check every application in this level of detail. I think this would've been the fair thing to do here.

Had it contacted the dealership, I'm satisfied that it would have most likely realised that this wasn't a deliberate omission by Miss W, but a small oversight by the dealership itself. In those circumstances, I don't think it would've been fair or reasonable to have then record information with CIFAS.

So I've then gone on to think about the impact this has had on Miss W. She's shown us her credit file which currently presents her having an "excellent" rating, in the relevant credit reference agency's terms. Miss W has also provided an application for credit that was declined in September 2017, when the CIFAS marker was still in place. She's then provided evidence of a further application for the same credit after the CIFAS marker was removed just two months later to show it was then approved. Her credit file didn't change much in these two months and, in fact, the only significant change seems to have been the removal of the CIFAS information.

While the factors a lender will take into account aren't solely based on credit file information and/or CIFAS records, these will have a huge impact on any application for borrowing. In my view, the information Miss W has provided us shows that the CIFAS marker would most likely have had an impact on any applications for borrowing she made while this was recorded against her. Miss W clearly tried to improve her credit history in the time after this information was recorded against her, so it must have been very frustrating and upsetting to be declined for borrowing after working hard to improve this.

So I think that Black Horse should recognise the impact this had on Miss W and I agree with the investigator that £500 in total compensation is fair for this. This amount takes into account the impact that the initial recording of this information would've always had on Miss W, alongside the length of time it continued to impact on her while it was recorded.

### **my final decision**

My final decision is that I uphold this complaint. Black Horse Limited must pay Miss W £500 to compensate her for the trouble and upset it caused here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 18 July 2018.

James Staples  
**ombudsman**