

Complaint

Mr T is unhappy about Experian Limited's decision to add fraud markers to his credit file. He's also unhappy that Experian said they'd removed the markers when they hadn't. Mr T would like compensation.

Background

Around February 2018, Mr T applied with Experian to access his credit report. But Experian didn't provide it to Mr T because they had concerns with the application and couldn't be sure it was Mr T who was asking for it.

Mr T believes that Experian placed a fraud marker against Mr T's name with CIFAS, the Credit Industry Fraud Avoidance System to his credit report. And he couldn't open accounts with some banks and credit lenders.

In April 2019, Mr T complained to Experian. Experian responded to Mr T's complaint and explained that when they have concerns about an application, it is their process to block the application and add a CIFAS marker to protect their customer. They'd asked Mr T for some information to confirm it was him who made the application to access his credit report. Experian confirmed they were satisfied with the information Mr T provided and confirmed they'd removed the markers.

Shortly after this, a third-party bank closed one of Mr T's accounts. Mr T didn't know why so he raised a Subject Access Report (SAR) with the third-party bank. On receipt of this, he learned the closure of the account was due to a CIFAS marker.

Mr T got in touch with CIFAS and they explained that a total of four loadings had been added under Mr T's name from January 2019 to March 2019. CIFAS let Mr T know the loadings were still active at that time – which was around May 2019 and after Experian had confirmed they'd removed them.

Mr T remained unhappy and so he brought the complaint to our service.

The investigator upheld Mr T's complaint. She didn't think Experian had met the principles for loading the CIFAS markers in the first place. And she thought they could have removed them sooner which would have reduced the impact caused to Mr T. The investigator recommended Experian pay Mr T £250 compensation.

Mr T initially accepted the investigator's view, but then changed his mind. He thought more compensation should be offered as he felt the impact on him was severe. Experian didn't agree any compensation should be paid, however they didn't respond to the investigator's view in full to confirm their position.

As an agreement couldn't be reached, the complaint has been passed to me.

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 agree with the investigator's initial recommendation. I appreciate neither party agreed with that recommendation, so I've explained my reasons further below.

Adding the CIFAS marker

Our Investigator helpfully explained the “four pillars” that are required to be met by Experian in adding the CIFAS marker. I’ve repeated them below as they’re key to this complaint.

CIFAS is a fraud prevention service. Members of CIFAS can record and share information about their customers to help detect, deter and prevent fraud.

To use the database, a CIFAS member must operate within the terms of the National Fraud Database Handbook – a guide that sets out what the requirements are in order to add a CIFAS marker.

Experian says they applied the CIFAS marker because they wasn’t sure of Mr T’s identity when the application to access his credit file was made. So I’ve looked at whether Experian were fair to apply the marker, based on the evidence they had, and the investigation they carried out. I’ve also considered what the rules say about applying a CIFAS markers.

CIFAS principles say that members (such as Experian) should only record information of the type recorded against Mr T’s name if there are reasonable grounds to believe that a financial crime has been committed. And that the evidence is such that the matter could be reported to the Police. CIFAS guidance also says the business must have carried out checks of sufficient depth to meet the burden of proof set by CIFAS.

Principle 4 says that Cases filed to the National Fraud Database must be supported by evidence and meet the ‘four pillars’ of the Standard of Proof. The Standard of Proof is: -

1. That there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted;
2. That the evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the Subject to the police;
3. The conduct of the Subject must meet the criteria of one of the Case Types;
4. In order to file the member must have rejected, withdrawn or terminated a Product on the basis of Fraud unless the member has an obligation to provide the Product or the Subject has already received the full benefit of the Product.

For me to conclude that Experian has acted fairly and reasonably by adding a CIFAS marker, I must be satisfied, from the evidence I’ve received, that it has met all four pillars of the standard of proof.

Based on the information both Experian and Mr T have supplied, I can’t confidently say all four pillars have been met. I don’t feel the evidence is clear or rigorous enough that Experian could report the matter to the Police. And I haven’t seen any evidence to show that Experian did raise their concerns to an official body. I appreciate why Experian wanted to check Mr T was the one applying to see his credit report, and I think them asking him for extra documentation was reasonable. I’m also pleased to see that when Mr T supplied it, Experian continued with his application for access to his credit report. Albeit I’m aware there were further issues with that which don’t form part of this complaint.

Overall, while I appreciate the concerns Experian had relating to Mr T’s identity, I don’t think the doubts or concerns Experian had to try and protect Mr T’s identity were enough to satisfy me that a CIFAS marker should have been added – even if it was to protect him. A CIFAS

marker has serious consequences, and I can't fairly say the extent of Experian's concerns meet the consequences of the marker in the circumstances of this complaint. So, in my view, there was insufficient evidence and I agree with the investigator that it was unfair of Experian to apply the marker.

The communication

When Mr T complained in April 2019, Experian confirmed they'd removed the marker. But they hadn't.

Mr T got in touch with CIFAS directly, and they told him he'd had four 'false identity' loadings recorded against him. And while they couldn't tell him the exact date the markers were removed, I think it's likely to have been sometime in May 2019.

I say that because when Mr T first spoke to CIFAS around 7 May 2019, they confirmed the markers were still active. And on their second correspondence later in May 2019, they had been removed. Therefore, the only reasonable assumption here is the markers were removed sometime between Mr T's first correspondence with CIFAS, and the second.

I think Experian telling Mr T they'd removed the markers when they hadn't would have caused more distress to him. And I think he suffered more consequences as a result of this.

The impact

Mr T has provided evidence to show he had two bank accounts closed in April and May 2019. And he's shown that he was declined for around 16 applications to other credit facilities. I think it's fair to say these declines were most likely due to the CIFAS markers – especially as Mr T only found out about the CIFAS marker because he raised a SAR with one of his banks after they closed the account.

I consider Experian could have removed the markers sooner than they did. I say that because I haven't seen that Mr T provided Experian with any additional information, or that Experian reviewed things further from when they placed the marker to when they decided to remove it. If the markers had been removed sooner, I think it's fair to conclude Mr T would have been less impacted.

Overall

Overall, I don't think Experian had enough grounds to record the markers. And I also think they could have removed them sooner than they did. Mr T has experienced a great deal of inconvenience due to this and I don't doubt how frustrating and worrying this overall situation would have been for him.

Therefore, I think Experian should pay Mr T £250 compensation for the distress and inconvenience caused. I appreciate Mr T thinks more compensation is warranted, but in the individual circumstances of this complaint, I consider £250 to be a reasonable amount.

My final decision

My final decision is that, Experian Limited should pay Mr T £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 29 August 2020.

Hayley West
Ombudsman