

complaint

Mr K complains that Bank of Scotland plc trading as Halifax will not remove a Credit Industry Fraud Avoidance System ('CIFAS') entry it registered against him after a mortgage application he made to it.

background

Mr K applied for a mortgage with Halifax through a broker. Amongst the material submitted to Halifax in support of the application were payslips and P60s to verify Mr K's income. Two separate sets of documents were presented to Halifax, and the bank identified differences between the two. Halifax rejected the mortgage application and registered a CIFAS fraud warning against Mr K.

Mr K complained, saying he had not made any attempt to inflate or misrepresent his income. He had, he said, prepared payslips intended to reflect how his income would look if he was receiving wages on a PAYE basis. In reality, his income took the form of drawings and dividend from a limited company. Halifax refused to remove the CIFAS entry on the basis that Mr K, via a broker, submitted documents which were not genuine..

Mr K complained to this service, saying that Halifax should remove the entry because he had only created the payslips and P60s for illustrative purposes, never intending them to mislead or to present him as earning more than he did.

Our adjudicator didn't recommend upholding the complaint. She thought that Halifax was justified in making the entry, and justified in not removing it. Mr K remains unhappy, and so the complaint comes to me to review.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Halifax has not said that it disputes Mr K's account of what he did and why (though nor has it accepted it), and so I do not need to decide whether things happened as he said. For the purposes of this decision, I shall assume it is correct.

Halifax simply says that it was right to raise a CIFAS alert because payslips and P60s that were not genuine had been submitted in support of a mortgage application. Mr K does not dispute that he created the documents but says, in effect, that because he had no fraudulent intent in doing so, the entry should now be removed.

I am afraid I do not agree. Halifax received an application for a mortgage, and mocked-up documents were submitted in support of that application. That is exactly the sort of situation in which a business should make a CIFAS entry.

Nor do I think Halifax acted unreasonably in deciding not to remove the entry once it was made. Mr K accepts that he produced the documents and arranged for them to be submitted to Halifax, in support of a mortgage application. Even if it was not Mr K's intent to misrepresent his income, by creating them and having them passed to Halifax, he exposed himself to the risk of his intent being misinterpreted and an entry being made.

Whatever Mr K's motivation, this was an ill-advised thing to do. It was also unnecessary, since I see no reason why Mr K could not have discussed with his broker the sorts of evidence that would be needed in support of a mortgage application quite easily without needing to manufacture it himself. I am afraid that it is Mr K's actions that lie at the root of this complaint and he must bear the consequences of them; I do not think that Halifax has done anything wrong.

Mr K says he and his business are having considerable difficulty obtaining credit, and that prospective lenders are giving the CIFAS marker as a reason for turning him down. I cannot consider here the reasons why other lenders will not lend to Mr K or his business – although the guidance given on CIFAS' website suggests lenders should not refuse credit solely because of a CIFAS marker, and I further note that Mr K says he did succeed in obtaining a mortgage elsewhere after presenting his income correctly.

I can only consider whether Halifax was wrong to apply the marker and then refuse to remove it. For all of the reasons I have set out, I am unable to conclude that it was.

my final decision

My final decision is that I do not uphold this complaint.

Jeff Parrington
ombudsman