

## **complaint**

Mr and Mrs G complain that Accord Mortgages Limited unfairly put them on the Credit Industry Fraud Avoidance Scheme ("CIFAS") database. They would like Accord to remove their names from that database.

## **background**

Mr and Mrs G took out a residential mortgage on a self build property. Accord released the loan to them in three stages between 2008 and 2010. Mr and Mrs G are using it for holiday lets.

Mr and Mrs G found out they were on the CIFAS database after Mr G's motor insurance policy was declined. Mr and Mrs G say that they bought an empty shell of a building in 2008 when they began to do it up and finished the job in 2010. Mr and Mrs G say that they bought it with the intention of living there but circumstances changed and they then decided to use it for holiday lets. Accord became aware of this in 2015 when Mr G contacted the lender about re-mortgaging the property and, as he says, he freely told Accord about the holiday lets. Accord wrote to Mr and Mrs G saying that because of the breach of the mortgage terms, it was adding a premium to the mortgage interest rate which Mr and Mrs G accepted. But Accord also put them on the CIFAS database without telling them, which they believe is unfair.

Our investigator didn't recommend that this complaint should be upheld as he thought the evidence pointed to Mr and Mrs G intending to let out the property when they applied for a residential mortgage. Mr and Mrs G disagree saying in summary that it was their intention to live in the property and when they couldn't do this, all they did was to allow some holiday lets to happen to partly cover some of the costs.

## **my findings**

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

The issue here is that Accord believes that Mr and Mrs G always intended this to be a commercial property. On the other hand, Mr and Mrs G say that they intended to live in the property when they bought it in 2008. They say that their intentions changed between 2008 and 2010 because of a change in their financial circumstances.

Accord says that Mr and Mrs G applied for a residential mortgage to gain a financial advantage rather than pay for a higher rate on a commercial mortgage. For that reason Accord placed a fraud marker with CIFAS. I have looked at the CIFAS best practice guide which identifies two possible issues that might have caused Accord to report this matter to CIFAS. Firstly, if the borrowers wished to obtain an investment property but stated that they will occupy it as a primary residence-this is termed "*Application Fraud*". Secondly, if the borrowers get a mortgage as a primary residence but then move out and use it as an investment property. This is called "*Misuse of Facility*." Accord has registered this on the basis of Application Fraud saying that there were material falsehoods in the information provided.

Mr and Mrs G have developed a holiday letting business with this property which can be seen by looking at the website for the property. The website was registered in May 2010 before the final tranche of loan money was drawdown. This suggests that even before Mr and Mrs G had redeveloped the property, it was their intention to operate this holiday letting business. Mr and Mrs G appear to have continued this business since then. Mr and Mrs G also have a number of other buy to let properties and so, I believe, would know that they were getting a financial advantage by not informing the lender until 2015 that they were using this property as a commercial enterprise.

Mr G also told Accord in a phone call that he told the broker who arranged the mortgage that they didn't intend to use the property as a residential home. I note that Mr G says that this was a phone call recalling a discussion many years before and may not be accurate. But when I weigh it together with the rest of the evidence I believe, on balance, that it is reasonable to conclude that Mr and Mrs G didn't intend to use this property for residential purposes but as a business for holiday lets. So I don't believe that it was unfair for Accord to report this to the CIFAS database. For that reason I can't fairly uphold this complaint.

### **my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 7 August 2017.

Gerard McManus  
**ombudsman**