

## **The complaint**

Mrs B complains that National Westminster Bank Plc recorded an entry about her on a fraud prevention database following her failed mortgage application to it.

## **What happened**

Mrs B applied for a mortgage with NatWest, via a broker, in 2019 but the application was declined. Mrs B says she discovered in October 2022 that NatWest had recorded a marker against her name with CIFAS, a fraud prevention database. Mrs B says that has caused her financial hardship as she is a landlord with a property portfolio.

Mrs B complained to NatWest. NatWest responded in a letter dated 20 November 2022. It said her mortgage was declined because of the results of its standard checks and those checks also led to NatWest recording the CIFAS marker. NatWest said it had followed the correct procedures so would not be removing the marker.

Dissatisfied with NatWest's response to her complaint, Mrs B referred the matter to us. She said she feels that it's unfair that NatWest hadn't provided her with any information about the marker and hadn't removed it. But she assumes NatWest's concern was with her second income from her husband's company, as her broker told her that is often looked upon by lenders as a likely source of fraud. Mrs B explained that the work she was paid for by her husband started six months before the application and lasted for over a year after the application.

Our investigator didn't uphold Mrs B's complaint. She thought, in adding the CIFAS marker, NatWest had acted fairly and reasonably because she's seen sufficient evidence to meet the standard of proof to do so. And she explained that NatWest was not obliged to inform Mrs B that it had added the CIFAS marker or why it had done so.

Mrs B didn't accept our investigator's opinion. She said she actually worked for her husband for a further three years, on a part time basis doing administration work. And she has provided us with an accountant's letter showing that.

As Mrs B didn't accept our investigator's opinion, her complaint has been passed to me for a final decision.

## **What I've decided – and why**

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've come to the same conclusion as our investigator. I'll explain why. When Mrs B applied for the mortgage in 2019, NatWest considered the information and evidence it received in connection with mortgage application and carried out underwriting checks to try to confirm the accuracy of what it was told and to decide whether it wanted to lend. I think it's worth saying here that there was no obligation on NatWest to lend money to Mrs B. It wasn't obliged to give reasons for refusing to do so either.

The standard of proof for putting a marker on the CIFAS database is that there must be clear, relevant and rigorous evidence of fraud, such that NatWest could confidently report the matter to the police or other authorities (whether or not it has actually done so).

The standard required is therefore one of reasonable suspicion, not proof. But there must be evidence of fraud. There are various fraud offences, but a common feature is acting dishonestly for financial gain.

Having carefully considered all the evidence available and arguments made, I can understand why NatWest had concerns about the information it had been given in connection with Mrs B's mortgage application.

As I've said above, Mrs B believes NatWest may have been concerned about her secondary earnings which she says are from work she carried out for her husband's business. Mrs B provided payslips and bank statements to NatWest to show that income as part of her mortgage application. However, the bank statements provided show that the income she claimed was paid to her husband's bank account. While I make no judgement here about the legitimacy of Mrs B's secondary income, I do understand that to be an unusual arrangement – ordinarily a lender would expect to see earned income paid to the employee's bank account.

NatWest tried to verify the legitimacy of Mrs B's payslips for her secondary income with the relevant tax authorities. However, those payslips could not be verified. So, again, I understand why that would cause suspicion.

Mrs B has provided us with a copy of an accountant's letter. In that letter the accountant says Mrs B started employment with her husband's company on 1 December 2018 and worked there until 31 May 2022. I think that does add weight to Mrs B's argument. However, I don't think that means it was unreasonable for NatWest to be concerned about Mrs B not directly receiving pay for the employment she claimed. NatWest appears not to have moved to report its suspicion to CIFAS on that information alone. Instead, it sought to verify the validity of the payslips Mrs B had submitted as evidence of her income with the relevant tax authority. NatWest acted to report its suspicion to CIFAS – and decline Mrs B's mortgage application – only when the relevant tax authority could not verify the validity of Mrs B's payslips.

Mrs B says her broker told her that employment with family is often looked upon as suspicious by lenders. Had NatWest reported its suspicions to CIFAS merely because Mrs B claimed she was employed by her husband, I wouldn't consider that reasonable. But, in this case, its suspicions were based on Mr B making Mrs B's salary payments to his own bank account. And then the relevant tax office could not verify her payslips – adding another layer of suspicion. So, I don't think NatWest acted unreasonably here. And I don't think the letter from Mr B's accountant is sufficient for me to ask NatWest to arrange for the marker to be removed, as that letter doesn't address NatWest's specific concerns – albeit that I understand Mr B's accountant wouldn't have known what NatWest's specific concerns were at the time of writing his letter. That means I don't uphold Mrs B's complaint.

### **My final decision**

My final decision is I don't uphold Mrs B's complaint about National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 14 August 2023.

Gavin Cook  
**Ombudsman**

