

The complaint

Mr M has complained that Gain Credit LLC trading as Drafty (“Drafty”) carried out the wrong type of credit search when he applied for a credit facility. As a result, he says this declined search prevented him from obtaining other credit.

What happened

Mr M approached Drafty for a running credit facility in February 2021. His application was declined, and no facility was granted.

Drafty then contacted Mr M on 11 January 2023, through its sister company to explain that it had discovered that when Mr M applied for his credit facility, Drafty had carried out the wrong type of credit search. Drafty had carried out a “hard” credit search rather than a “soft” credit search. Drafty at this point told Mr M it was contacting the credit reference agencies to have the search removed from his credit report.

Mr M was unhappy about this and so raised a complaint because he said he had issues with his credit file, had been refused credit and Mr M said Drafty’s incorrect entry contributed to this. He asked for a payment of compensation.

Drafty’s sister company responded and explained that while Mr M may have been previously declined for credit, those providers can and do look at more than just a credit score. It concluded it was:

“...extremely unlikely that the effect of the search mark we left would, in isolation, have any meaningfully bearing on your credit reference agency score.”

No compensation was offered to Mr M and unhappy with this he referred his complaint to the Financial Ombudsman.

Due to the sister company issuing the response to Mr M’s complaint that is who the complaint was set up against when it was referred to the Financial Ombudsman. Which also meant, the sister company provided its file in relation to a loan granted by it. The case was reviewed by an adjudicator who didn’t uphold it because he didn’t think it was wrong that a “hard” credit search was carried out.

Mr M didn’t agree saying Drafty had accepted it ought to have carried out a soft credit search. As no agreement could be reached, the case was passed to me for a decision.

I issued a provisional decision explaining the reasons why I was intending to not uphold Mr M’s complaint. Both parties were asked to provide any new submissions as soon as possible, but in any event, no later than 1 November 2023.

Drafty acknowledged the provisional decision and didn’t provide any further submissions.

Mr M responded with two emails, I’ve summarised his responses below:

- we've confirmed Drafty made an error, yet we've asked for the impossible in asking him to obtain a copy of his credit report from around two years ago,
- Mr M had other hard searches around the same time that would've impacted his credit score and Mr M said this hard search impacted his credit score,
- had Drafty noticed the error soon after the search then he could've started the complaint earlier and would've been in a position to provide further evidence; and
- Mr M is being punished in the outcome that was provisionally reached "*through no fault of my own*".

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

What I said in my provisional decision:

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

It's worth saying here that when the complaint was referred here, given Drafty's sister company had provided the response to the complaint it was then incorrectly set up against the sister company rather than Drafty. This is the reason why I am issuing a provisional decision, and to provide further reasoning as to why I am not asking Drafty to pay any compensation.

I think it would be helpful to outline the differences between the two types of credit search. Drafty, incorrectly carried out a "hard" credit search and by doing so it would leave a record on Mr M's credit report for other credit providers to see – if a credit search was carried out. Too many "hard" credit searches can, in the short term impact a customer's credit score. A well-known credit reference agency says that hard searches typically "fall off" a customer's credit report after 12 months.

Whereas a "soft" search doesn't leave a record on a customer's credit report and therefore other credit companies would be unaware that a search had taken place.

In the email to Mr M of 11 January 2023, Drafty has accepted it made a mistake, when Mr M applied for the facility a "soft" search ought to have been conducted instead of the "hard" search which was carried out.

Further enquires were made with Drafty about this error and it provided a link to its website, which confirmed that as part of the application process a "soft" search would be recorded on the credit file – meaning that this would be visible to Mr M but not to other credit providers. It also explained that this error was discovered during an "internal periodic review".

To me it is clear, an error has been made here, the wrong type of search was recorded on Mr M's credit file. Drafty has accepted this and has already requested this search be removed from Mr M's credit file, which is a reasonable course of action.

However, Mr M has said this impacted his ability to obtain further credit and caused problems with his credit file – Mr M feels a payment of compensation is due, and that is what I've focussed on in this decision.

In saying that, Mr M hasn't been able to supply a copy of his credit file, so I don't know how much of an impact the incorrect type of credit search had on Mr M. For example, I haven't seen any evidence to show that Mr M was declined further credit solely because of what Drafty was incorrectly reporting. I also can't rule out, given what one credit reference agency has said that that the search was removed after 12 months – which is typically the case – albeit this doesn't always happen.

In addition, I can't say what the impact was on Mr M's credit score by the search being incorrectly recorded and secondly, how much of an impact that credit search played on other declined applications which Mr M may have had.

There are of course a number of reasons why credit maybe declined, too many hard searches can in some instances play a part – and so it's possible that in some capacity Drafty's record did impact his applications. Or, Mr M may have been overindebted or had adverse credit file data. I just don't know.

But without any evidence to show that there was a financial loss or that Mr M had been caused material distress or inconvenience by Drafty's actions I can't require Drafty to offer Mr M any payment of compensation.

So overall, while Drafty did make an error in what it reported to the credit reference agency, in this case I can't award a payment of compensation because I don't know and can't say to what extent Drafty's error caused Mr M other problems with his credit file and or other credit applications.

I am therefore intending to not uphold Mr M's complaint.

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.

Drafty didn't have anything further to add, but I've thought about what Mr M has said, and having done so, I'm still of the view that while Drafty made a mistake with the type of credit search, it doesn't need to do anything else to resolve the complaint. I've explained why below.

Once it has been decided that something has gone wrong, the role of the Financial Ombudsman is put a consumer back into the position they would've been in (as far as it is possible) had the error not been made.

In this complaint, the wrong type of credit search was conducted. However, just because an error has been made that doesn't automatically lead to a payment of compensation - either to cover any financial loss or any distress and inconvenience (or for any of the other reason that an ombudsman can make a financial award for).

Having considered the individual circumstances of this complaint, Mr M has said that he had problems with his credit file and had been refused credit. And so, for me to make an award for any possible financial loss, I'd have to be satisfied that Drafty caused the difficulties and led to the credit being refused in the first place.

I acknowledge that having a hard credit search on the credit file may have impacted Mr M's ability to obtain further credit. But to what extent it did, I can't say and don't know. Indeed, Mr M has said he had other "hard" credit searches at the time. As such, given that Mr M said about the other hard credit searches (and it sounds like he may've had more than one) I can't rule out the possibility that he would've still been declined credit, even if the Drafty hard search wasn't present on his credit file.

So, in the circumstances, I can't reasonably ask Drafty to make a payment, when it can't be said with any certainty that its error had an impact on Mr M's declined credit applications.

It's also worth saying that any award made by the Financial Ombudsman isn't designed to fine or punish Drafty for the error that was made – the awards aren't punitive. This means that, just because an error has been made, it doesn't always lead to a compensation payment.

I did consider as part of my provisional decision whether a payment ought to be made for any distress and inconvenience caused. But in this case, for two years neither party knew there was a problem with the credit search. And I've not seen anything to suggest that Drafty knew of the problem earlier than it did.

And so, when Drafty proactively contacted Mr M telling him what had happened it offered, in my view, a fair solution – to remove the “hard” search from his credit file. It's also the case that I can't reasonably conclude that Mr M experienced significant distress and inconvenience, given that he wasn't aware of the error, that is until Drafty had contacted him to say what it was doing to put matters right.

In the circumstances of this complaint, I'm satisfied the actions already taken by Drafty were fair and reasonable and it doesn't need to do any more. Because of this, I do not uphold Mr M's complaint.

So, I've reached the same conclusions as I reached before, that is while an error has been made Drafty doesn't need to take any further action.

My final decision

For the reasons I've explained above and in the provisional decision, I'm not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 December 2023.

Robert Walker
Ombudsman