

The complaint

Mr H complains that Santander UK Plc made an entry about him on a fraud prevention database (CIFAS) following an unsuccessful mortgage application.

What happened

Mr H applied for a mortgage in 2017, which was declined by Santander. He raised a complaint as he found that Santander had recorded a fraud marker in his name with another fraud database – National Hunter. Santander responded in 2017 to say that it had done nothing wrong and that it may be beneficial for Mr H to obtain a copy of his Subject Access Request (SAR) from CIFAS. It provided a timeframe of six months to refer the matter to this service if he remained unhappy with the outcome.

Mr H says he didn't take the matter further in 2017 due to a bereavement and he understood that the National Hunter marker would be removed after three years.

In 2020, Mr H applied for a telephone contract but was refused. He made further enquiries – including a SAR to CIFAS - and found that Santander had recorded a marker in his name, following concerns about the income he'd declared on his mortgage application from 2017.

He complained to Santander about the marker. It looked again at the matter, including the further information provided by Mr H, but declined to remove the entry.

Mr H brought his complaint to this service. Santander consented to this service considering the recording of the CIFAS marker, and the recent decision not to remove it. The complaint made in 2017 was in relation to the National Hunter marker.

Our investigator considered the matter but didn't think Santander had acted unfairly. Mr H disagreed and so the matter has been passed to me to decide.

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.

CIFAS issues principles for its members (which are available on its website) which set out the standard of proof to be applied in making an entry on the database. Making an entry doesn't require proof of fraud or a criminal conviction.

The standard to be applied is that Santander should have had clear, relevant and rigorous evidence such that it could confidently report the matter to the authorities should it choose to do so – so the standard is not proof of fraud, but reasonable suspicion of fraud. And although the principles were issued in 2018, I think they represented existing good practice and it's fair to take the same approach in this case. I've looked at all the evidence in this case.

When a mortgage application is made, a lender will assess it and conduct relevant checks against the information provided and use their own lending criteria to help decide whether to lend.

Santander tried to verify the income Mr H had declared but was unable to. This alone should not be the reason for a firm to record an entry on a fraud prevention database – it should conduct further investigations before recording a marker. But I can see that Santander did this - it asked Mr H for details of his employers in 2017 and conducted checks on the company. The information it found was not consistent with the information provided.

With these inconsistencies in mind, I don't think that Santander acted unfairly when it applied the marker in 2017. And having reviewed the information, I don't think that the decision to enter the marker was an unreasonable one.

I've considered if, with the new information that Mr H has since provided, it would be fair for Santander to now remove the marker.

On discovering the CIFAS marker in 2020, he complained to Santander. As it declined to remove the marker, Mr H also approached Her Majesty's Revenue & Customs (HMRC) to try to find out what had happened and correct any information in order for the marker to be removed. It provided a record of Mr H's taxable income for the financial year of 2017-2018. This information does not match the income declared on the mortgage application form.

Mr H has said that these inconsistencies were likely caused by an error of his previous employer and that he's been told by HMRC to get in touch with them if he would like to correct the records - but he's unable to as the company is no longer trading.

I can appreciate the difficult position that Mr H is in and understand that he's now looking to take out a mortgage. I've thought carefully about all the information provided. Having done so, I don't think that Santander acted unfairly when it declined his request to remove the marker in 2020.

I say this as Santander gave consideration to the new information Mr H provided and made further enquiries. And I bear in mind that Santander's reasonable concerns in 2017 were not only about the amount of income Mr H declared. I'm not persuaded the further evidence that has been provided shows the standard is no longer met. In all the circumstances, I don't think that Santander acted unfairly.

I understand that this will come as a disappointment to Mr H but having considered everything, I don't think I can fairly uphold his complaint.

My final decision

For the reasons I've given, my final decision is that I don't uphold this complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 8 December 2021.

Camilla Finnigan
Ombudsman