

## **The complaint**

Mr M complains that Santander UK Plc made an entry about him on the CIFAS fraud prevention database in connection with a mortgage application.

## **What happened**

Mr M and his partner applied for a mortgage with Santander. As part of its consideration of the application, Santander asked for proof of income.

Mr M explained that he had both employment and self-employment income. He provided wage slips for his employment income. And he said he asked his accountant to complete a declaration of his self-employed income.

Santander considered the evidence Mr M had supplied. It had concerns about the evidence provided for both his employed and his self-employed income. The employment payslips had no deductions for income tax. It says it contacted the accountant named on the certificate, who confirmed he had not signed it. Santander therefore added the marker to the database and did not proceed with the mortgage application.

Mr M applied to other lenders. He says they turned him down too. And he was advised to contact CIFAS – which told him about the marker Santander had recorded. So Mr M complained to Santander. He provided a letter from the accountant's firm confirming Mr M was its customer and the certificate was genuine. But Santander didn't agree to remove the marker.

## **My provisional decision**

I issued a provisional decision setting out my view of the complaint. I said:

CIFAS issues principles for its members – which are publicly 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.

I've looked at all the evidence in this case. And having done so, I'm not persuaded that Santander acted unfairly when it placed the marker on the database.

Santander has pointed to issues with the payslips. And I've taken that into account. But it seems to me that this case really turns on the accountant's certificate.

Santander contacted the accountant named on the certificate – who I'll call Mr L. Unfortunately there's no recording of this call, but Santander's contemporaneous notes show that he told Santander that he did not sign it. On the balance of probabilities, I accept that the notes are an accurate record of what was discussed.

Mr L told our investigator that he didn't say he hadn't signed the certificate; he wasn't able to say one way or another because he was driving and didn't have access to his business records at the time of the call. Though Santander's notes record that it called a landline and spoke to a woman who called Mr L to the phone, which doesn't suggest that he was driving at the time.

On another occasion, Mr L told our investigator that he didn't confirm anything to Santander because he was concerned it was a scam call but that as the most qualified person in the firm he would have signed it.

Separately, Mr L has appeared to suggest that the certificate was signed by the accountancy firm's director, who I'll call Mr J – who didn't realise he should write "per pro" when signing a form under Mr L's name. Mr J also runs the separate firm which was Mr M's employer and issued the payslips provided at the time of the application.

When Mr M first complained, Mr J wrote to Santander in support of Mr M's complaint saying that the certificate was signed by Mr L and was accurate.

I have seen letters personally signed by Mr J and Mr L, and – though I am not a handwriting expert – the signature on the certificate appears to me to be different to those used by both Mr J and Mr L when signing letters.

When Santander attempted to verify the accountant's certificate by calling the named accountant who appeared to have signed it, and that accountant confirmed they had not signed it, I think that was sufficient to have given Santander reasonable cause to suspect that it had been provided with a document that wasn't genuine. And so I don't think it was unfair that it put the marker on the database.

And I've considered what's been said since, including the differing accounts of what happened and the differing signatures. I'm not persuaded that the further evidence that has been provided shows the standard is no longer met, and so I don't require Santander to take any further action.

### **The responses to my provisional decision**

Santander did not add anything further.

Mr L didn't accept my provisional decision. He said that Santander hadn't met the standard for making a report, because it hadn't shown it had clear relevant and rigorous evidence. For example, it did not have a copy of the call recording with Mr L, and it was not enough to rely on the notes. He said he had not concealed or withheld any information from Santander, the information he gave was accurate and the certificate was signed by his accountant.

He provided a letter from HMRC which set out his employment income and said it had no record of self-employed income.

### **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.

I've carefully considered what Mr M has said and I note the impact on him of having a marker recorded against his name.

As I explained in my provisional decision, in order to put the marker on the database, Santander was not required to have proof of fraud, but reasonable suspicion of fraud.

It's unfortunate that there's no recording of the call with Mr L. But that doesn't mean that the call can be disregarded; the notes are relevant evidence to be taken into account and given appropriate weight.

As I explained in my provisional decision, Santander carried out reasonable enquiries into what it was told. Having done so, it identified a number of discrepancies – including different accounts of how the certificate was signed. Different accounts have also been given to us. There is other evidence, which I also set out in my provisional decision. I'm satisfied that it was reasonable for Santander to conclude that the standard for making a report had been met and I don't think I can fairly ask for it to be removed.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 December 2021.

Simon Pugh  
**Ombudsman**