

The complaint

Mrs S complains that The Mortgage Lender Limited (TML) unfairly recorded an entry about her on a fraud prevention database (CIFAS) in connection with a mortgage application.

What happened

In 2020, Mrs S applied for a mortgage, through a broker, with TML. She sent her documents to a third party who then passed them to the broker who made the application.

TML declined the application and registered a marker with CIFAS. This is a cross-industry fraud prevention database which allows financial services providers to share relevant information, subject to safeguards.

Mrs S complained. She said that her bank statements were altered without her consent by a third party and that she didn't see the documents before they were submitted to TML.

TML rejected the complaint and declined to remove the marker.

Mrs S brought her complaint to this service. Our investigator considered the matter and thought that the marker should now be removed.

TML disagreed and asked for an ombudsman to review the 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.

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

Here, TML said it found that bank statements had been altered and so it decided to enter a marker with CIFAS. Having considered the information, I don't think that the decision to enter the markers was unreasonable.

Mrs S has explained that this was her first application and that she trusted the third party to apply on her behalf. But regardless of the source of the information, I don't think that TML acted unfairly when it decided to apply the marker. And as the application was made in Mrs S's name, it follows that the marker would be registered against her. It's not in dispute that the documents provided in the application had been altered. The question is whether Mrs S was involved in this.

When Mrs S complained to TML to ask for the marker to be removed, she explained that she sent her documents to a third party who she thought was a broker and that she didn't alter the statements. TML further investigated the matter but decided not to remove the marker.

I've seen evidence to show that when Mrs S sent them to the third party - they were not altered. The broker that made the application has conducted its own investigation - the result of which concluded that it did not receive the statements directly from Mrs S, but from the third party.

Having thought carefully about this and reviewed the information provided, I don't think that Mrs S was involved in altering documents. I think that Mrs S trusted a third party posing as a broker and as this appears to be her first mortgage application, was not familiar with the process. Mrs S recalls signing a declaration form but didn't see the documents provided to support the application. I find this plausible.

I've kept in mind the principles CIFAS sets out for its members, which are publicly available on its website. One of the principles sets out the standard of proof for making an entry – which is that there must be reasonable grounds to believe there has been a fraud or attempted fraud, supported by clear relevant and rigorous evidence that could be reported to the police. There are various criminal offences that amount to fraud, but a common feature is seeking to gain financially through dishonesty.

I can understand TML's concerns over the application. But I think given Mrs S's explanation of events and further evidence provided to show that she sent the statements to the third party unaltered I'm not persuaded, on balance, that it's still fair to say that the required standard is still met.

I say this as I don't think the evidence shows that Mrs S herself provided false information. And without this, I don't consider there is a reason for the entry to remain in her name.

I've thought carefully about what both TML and Mrs S have said and in all the circumstances I think the fair outcome is for it to now remove the entry it made.

Putting things right

I don't think it was unreasonable at the time of the application for TML to have made the entry to CIFAS.

But now that Mrs S has explained the situation and provided evidence which supports her account, I don't think I can fairly say that the threshold is still met, so the rationale for the entry falls away.

And I therefore think it's fair for TML to remove the entry now.

My final decision

For the reasons I've given, my final decision is that I uphold this complaint and direct The Mortgage Lender Limited to remove any fraud prevention database entry it has made about Mrs S in connection with this mortgage application.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 11 March 2022.

Camilla Finnigan
Ombudsman