

The complaint

Mr G complains that Skipton Building Society (“Skipton”) has put a marker on the National Hunter fraud prevention database in connection with a mortgage application recording misuse of mortgaged property.

What happened

Mr G and his wife applied for a mortgage with Skipton through a broker in August 2018, which was declined during the same month. Mr G says that the reason given for it being declined was because Skipton did not have a suitable product to offer as there was a holiday letting barn in the garden of the property. Mr G accepted this and went on to find a mortgage elsewhere which would allow this. He subsequently applied for a business loan through a different lender in November 2020 and this was rejected. Mr G was invited to review his National Hunter records and these showed that Skipton had added a marker against him for fraudulent activity, namely ‘misuse of a mortgaged property’.

Mr G asked Skipton to remove this information on the basis that it is incorrect, but Skipton refused to do so. Mr G says that Skipton also refused to tell him on what basis the marker was added, given that Skipton accepts he has never held a mortgage with it. He also says that he is concerned that at the time Skipton did not seek further information to clarify matters from either himself or the broker who made the application as all the information was held by the broker.

Mr G lost the opportunity to obtain a government supported bounce-back loan as the deadline passed in March 2021 and he says credit facilities were withdrawn by this other lender. He says that he has also been the subject of financial enquiries from the other lender and the fraud department of HMRC due to Skipton’s allegation of fraud. Mr G works in financial services so needs to comply with money laundering regulations. He says that the fraud marker could reflect on his integrity and professional credibility and he could lose his registration and business altogether. Mr G would like the marker to be removed, for Skipton to reimburse the loan he was unable to obtain and to compensate him for the effect of the marker being placed against him incorrectly.

Skipton said that the marker in August 2018 was correctly applied and that it was unable to remove it from Mr G’s record. It said the application was declined due to the discovery of an undisclosed holiday let on the property as it does not lend on these forms of property. Skipton said the reason for the marker was therefore due to inconsistencies across the mortgage application received.

Our investigator looked into the complaint and thought that the misuse of mortgaged property marker hadn’t been applied correctly by Skipton as Mr G didn’t have a mortgage with Skipton. Skipton initially disagreed with this but subsequently accepted that the misuse of mortgaged property marker was misleading and amended the marker to show the reason as lack of transparency on transaction. This was on the basis that Mr G stated that the property was for residential use but it received intelligence via the valuer that part of the property was being advertised as a holiday let.

Our investigator looked at the complaint again having regard to the amended marker. She was of the view that, although the information on the application form was inaccurate, she didn't believe that the threshold for fraud had been met in this case. She therefore asked for Skipton to remove the marker from all fraud prevention databases. The investigator also recommended that Skipton should pay Mr G £500 in respect of the trouble and upset caused by the fraud marker being added to his record.

Skipton accepted the findings and agreed to remove the marker and pay the £500 compensation to Mr G. Mr G disagreed with this and therefore the case has come to me to make a decision. He does not accept that the amount of compensation adequately reflects the damage caused by Skipton. He says that he has lost his good name with the bank where he has been a customer for over 50 years and in all financial circles. Mr G also says that he has lost both private and business credit facilities with his bank and the opportunity to obtain a loan at a favourable interest rate underwritten by the government during the coronavirus pandemic. He says that he has been humiliated by being branded a fraudster on a national database.

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 carefully considered all the evidence and arguments, I agree with the investigator for broadly the same reasons and I've explained these further below.

Fraud prevention databases play an important role in the financial services sector, allowing financial businesses to share information to protect themselves and their customers from fraud. However, it's important that a marker is only applied where it can be justified.

I've taken this into account when looking at Mr G's case. Having done so, I'm satisfied that Skipton acted unfairly when it placed the marker on the National Hunter database.

Skipton's concerns were based on the fact that the mortgage application confirmed that the property to be mortgaged was for residential purposes only, however the valuation confirmed the existence of a detached self-contained barn which was being used for holiday lets.

I've looked at the application form which included the question "Will any part of the property be used for purposes other than your own residence?" to which no was marked as the answer. It is accepted by all parties that this is not correct as there was a barn in the back garden of the property which was used for holiday lets.

In determining whether to apply a fraud marker, a business must have reasonable grounds to believe that fraud has been committed or attempted, and there must be clear evidence of this. The threshold is therefore not whether the application is inaccurate but whether there is reasonable suspicion of fraud. There are various fraud offences, but a common feature is that a financial business has found dishonesty in the information supplied by the customer. I will therefore go on to consider whether I think Mr G behaved dishonestly in this case or, alternatively, whether the inaccuracy was down to a misunderstanding or honest mistake.

Mr G acknowledges that there was an error in the application and accepts that he signed the declaration confirming that the information on the application form (completed by the broker) was correct. However, he maintains that this was an innocent oversight as he thought the barn formed part of the residence. Whilst Mr G says that he can't recall being specifically asked about the holiday let by the broker, he says that he showed Skipton's valuer the

holiday barn himself and provided brochures and links which demonstrate that he wasn't trying to deceive Skipton.

I've also seen correspondence from Mr G's broker setting out that when the valuer visited the property to carry out the valuation, it was Mr G who made him aware that the outbuilding was used for holiday lettings.

In light of the above, I don't think Mr G deliberately attempted to falsify his application or omit information. It seems unlikely that he would draw attention to the holiday let barn to the valuer if he had intended to conceal this during the course of his application to Skipton. I also note that Skipton has not suggested the information about the holiday let barn came from anyone other than Mr G. I am therefore satisfied that the surrounding evidence indicates that Mr G was not acting dishonestly when he declared that the information on the application form was accurate. And I don't think the threshold has been met for a fraud marker to fairly have been applied.

A business shouldn't apply a fraud marker solely on suspicion of fraud; suspicion should lead to further investigation. So I think Skipton should have asked further questions at the time and considered the circumstances in order to avoid the fraud marker being applied in the first place.

I've gone on to consider the impact of the fraud marker being applied on Mr G. He is a professional working in financial services who has been subject to regulatory enquiry as a result of the fraud marker and I appreciate that he would have been worried about this. He also lost both private and business credit facilities with his bank and the opportunity to obtain a government-supported bounce back loan at a favourable interest rate during the coronavirus pandemic. Mr G says that the fraud marker could reflect on his integrity and personal and professional credibility and feels humiliated by being branded a fraudster and I accept that he feels that his personal and professional reputation has been damaged by this.

Mr G has said that Skipton should provide the bounce back loan he was unable to obtain due to the fraud marker. I have considered this and don't agree. Firstly, markers added by a business should not be grounds for another business to decline an application – instead they should be grounds to conduct further checks. So I can't reasonably say that Skipton is responsible for the loan being declined. Secondly, and more importantly, the loan was for a limited company that Mr G was director of. As the business is a separate legal entity to Mr G personally it is not an eligible complainant for the purposes of this complaint. For that reason, I am unable to make any award for any financial or non-financial loss to this company – or the impact of that on Mr G personally – in respect of the loan. I am also unable to consider the effect on the business generally when determining the distress and inconvenience caused.

I have considered all of the factors and am of the view that Skipton should compensate Mr G for the trouble and upset caused in the sum of £500. I understand that Mr G would like more compensation but having regard to the fact that I am only able to take into account the effect of the fraud marker on Mr G personally and not to his company, I feel that this a fair amount in all of the circumstances.

Putting things right

For the reasons set out above I uphold this complaint and require Skipton to:

- Remove all fraud markers it has applied from all fraud prevention databases, if it hasn't done so already.
- Pay Mr G £500 for the trouble and upset he's been caused.

My final decision

For the reasons set out above I uphold this complaint and require Skipton Building Society to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 17 June 2022.

Rachel Ellis
Ombudsman