

The complaint

Mr B is unhappy that Santander UK Plc declined his mortgage application then recorded a marker against him on a fraud prevention database.

What happened

Mr B applied for a mortgage with Santander in May 2020 via a broker which was declined. Santander then added a fraud marker against Mr B with CIFAS, a fraud prevention agency, as they were unable to verify Mr B's income.

When Mr B discovered that Santander applied the marker, he raised his concerns with them but they didn't think they had acted unfairly.

Mr B referred the complaint to the Financial Ombudsman Service where it was looked at by one of our investigators who thought that Santander had sufficient grounds to add the marker based on the information they had at the time of the application. So she didn't uphold the complaint.

Mr B disagreed with the investigator's findings and appointed solicitors to represent him. They provided further information and arguments and said that Mr B felt that Santander had acted in a discriminatory manner by adding a marker to the fraud prevention database.

Mr B's solicitors said they had noticed that there was an error with the information that Mr B's accountants had provided at the time of the application. The complaint was looked at by another investigator who asked that Mr B provide a letter from HMRC listing his historic earnings. On receipt of this information, Santander agreed to remove the marker.

Mr B still wasn't happy with this. He said, in summary, in order to resolve the complaint, he wanted Santander to reimburse his legal costs, application costs, costs of arranging documents and the cost of not being able to enter the real estate market. Mr B also said he wanted a letter of apology from Santander and compensation for the distress and inconvenience this caused him. He would also like Santander to review and approve a mortgage application once he was in a position to find a new property.

Santander didn't agree to reimburse any costs as they noted that the initial error was caused by Mr B's accountants which led to them being unable to verify his income. Our investigator didn't think that Santander had acted unfairly and didn't think they should reimburse any costs for Mr B.

Mr B disagreed with the investigator and in summary, made the following comments:

- He had provided evidence to Santander previously and they didn't agree to remove the markers until he appointed a solicitor – who provided similar evidence
- He would still like Santander to pay for his legal costs and send him a letter of apology for defamation of his character
- He thinks that Santander could have asked for more information or even rejected his application without adding an unfair CIFAS marker against his name causing him unnecessary difficulties

As Mr B disagreed, he asked for the complaint to be reviewed by an ombudsman, so it 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.

Lenders should only record information on fraud databases where they have reasonable grounds to do so. The principles CIFAS issues for its members say that evidence relied upon should be clear, relevant and rigorous such that the member could confidently report the subject to the police – but reporting the matter doesn't actually have to take place. I've looked at what Santander have done in Mr B's case, to decide if they acted fairly.

Santander had to assess Mr B's income in order to approve the application he made in May 2020. They have told us they were unable to verify his income. Mr B's income and employment changed during the preceding year as he had gone from being fully self-employed to being both self-employed and employed.

It has since come to light that Mr B's accountants identified that they made an error in the information they gave to Santander at the time the application was made. They said there was a typing error and they provided a turnover of £39,230 and gross profit of £39,350. But it should have read a turnover of £39,230 and a gross profit of £35,350.

Lenders carry out income checks to ensure that information they are given is correct and accurate. And when Santander did this, they were not able to verify the income that Mr B said he earned. So because of the concerns they had, they applied the fraud marker on the fraud prevention database.

Mr B has since been able to provide evidence of his income and Santander have now been able to verify Mr B's income, so they have removed this marker. I understand that Mr B said he provided evidence at the time, but it has only come to light more recently, that there was an error with what the accountant had submitted. So I don't think Santander should have removed this marker any earlier than they did.

Taking everything into account, I think that Santander had reasonable grounds to add a marker to the fraud prevention database, as I believe they had reasonable grounds to suspect they had received false information when the mortgage application was made.

Because of this, I don't think it's fair to ask Santander to cover Mr B's legal costs or any other costs in relation to his application, or the work that his solicitors have done in order to argue Mr B's case. Mr B was dealing with this complaint for a while and it was his choice to appoint a solicitor to act on his behalf – he didn't have to do this.

Mr B can re-apply for another mortgage with Santander if he wishes to do so, and Santander should consider that application fairly and reasonably and in line with their lending criteria. It's not reasonable for me to ask Santander to 'approve' or guarantee to lend to Mr B in this situation as Santander have their own lending criteria to follow.

Mr B made some comments about the broker that arranged his mortgage, but we are only able to make a finding on the actions of Santander here. If Mr B wishes to complain about the broker that arranged his mortgage, or in fact the accountant, he is free to do so.

Mr B has said that he feels he has been discriminated against by Santander. He said he feels discriminated on race, ethnicity, religion, marital and social status. This service is unable to make findings on whether someone has been discriminated against as per the characteristics set out in the Equality Act 2010. Only a court of law can do that. However, we do take all relevant law and regulations into consideration when deciding whether or not a business has behaved in a fair and reasonable manner.

Regarding Mr B's complaint, given the inconsistent information Santander received about his income, I don't think it was unreasonable for them to apply the CIFAS marker in the first instance. And once Mr B was able to provide evidence to show the discrepancy was caused

by a mistake made by his accountants, Santander removed the marker which was the fair thing to do.

I understand that this has caused Mr B a considerable amount of stress and upset and he has told us this has affected not only him, but his family. While I acknowledge that Mr B would like compensation for the distress and inconvenience he has been caused, I won't be asking Santander to pay any compensation because I'm satisfied, they acted fairly in the circumstances of this complaint.

My final decision

For the reasons given above, I uphold this complaint and direct Santander UK Plc to:

Remove the fraud marker they have applied, from all fraud prevention databases in relation to Mr B, if they haven't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 July 2022.

Maria Drury
Ombudsman