

The complaint

Mr T complains that Santander UK PLC (“Santander”) recorded markers about him on fraud prevention databases in connection with a mortgage application in his name.

Mr T is represented by a solicitor.

What happened

In July 2020 a mortgage application was made to Santander for £310,250 over a term of 25 years. The application was in Mr T’s name. Santander declined the mortgage application.

Mr T says the broker he’d used to get a mortgage decision in principle (“DIP”) made the application fraudulently using information (a copy of Mr T’s credit report) he’d provided to get the DIP.

Mr T has told us that he was introduced to the broker by people he thought he could trust. However, he never met the broker face to face – their communications were by WhatsApp only. He says he paid the broker £1,500. However, Mr T didn’t get a receipt and he found it hard to contact the broker after a while. Mr T accepts he signed a letter he got from Santander that asked him to verify his address. That letter referred to a mortgage application. However he says he didn’t see the application that was made and didn’t verify the information in it – much of which was incorrect. Mr T says he was surprised to find out that a mortgage application had been made.

Santander have provided us with various phone calls including a recording of a phone call between it and someone saying they were Mr T, applying for the mortgage in Mr T’s name. Mr T says he didn’t make that phone call. The person making the phone call said Mr T worked for a specific business. But Mr T has confirmed that he has never worked for a business of that name. Mr T told us that he works for another company in a different role to the one declared in the mortgage application.

In November 2020 Mr T tried to apply for a mortgage with another provider and found out that Santander had recorded a marker about him on two fraud prevention databases (CIFAS and National Hunter) in connection with the mortgage application.

Mr T complained to Santander about the markers, but it refused to remove them. So Mr T complained to the Financial Ombudsman Service.

Our investigator looked into what happened. She didn’t recommend that Santander remove the markers. She said she’d considered the relevant documentation and listened to the phone conversation referred to above. However, she couldn’t say that Santander had made a mistake when it recorded the markers.

Mr T remained unhappy and asked for an ombudsman to review the complaint. His representative has said that Santander didn’t carry out the rigorous investigation it was required to do before putting the marker on the databases. So Mr T’s complaint 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.

Having done so I've come to the same conclusion as our investigator. I'll explain why.

I'll start by saying that fraud prevention databases such as CIFAS and National Hunter play an important role in the financial services landscape, allowing sharing of information and assisting in the prevention of fraud. However, it's important that a marker is only entered where it can be justified.

Both the National Hunter and CIFAS databases require businesses to have clear, relevant and rigorous evidence of fraud before recording a marker. There are various fraud offences, but a common feature is acting dishonestly for financial gain.

There's no dispute that much of the information given in the mortgage application (including the information about Mr T's income) was false. So the question I must consider is whether I think Santander made a mistake when it concluded that there was enough evidence to support it putting markers about Mr T on the fraud prevention databases. As set out above, the nub of Mr T's complaint is that he says he wasn't complicit in providing false information in the mortgage application.

Mr T has told us that he paid £1,500 to the broker and sent him a copy of his credit file to an email address he was provided with on WhatsApp. He hasn't been able to provide the Financial Ombudsman Service with a copy of the WhatsApp messages although he told Santander he had them when he spoke to it on the phone to complain about the markers.

Mr T says he found it hard to contact the broker after the first few conversations and that he was surprised to get a letter from Santander in July 2020. That's because Mr T hadn't seen the application documentation and because he thought the broker would have needed more information from him to proceed with an application.

Santander's letter began by thanking Mr T for contacting it to discuss his mortgage. It went on to ask Mr T to sign and date the letter to confirm his address and upload the signed letter to its Mortgage Application Tracking System.

I think Mr T should have known from the letter that Santander thought it had been in contact with him directly, and that he'd made a mortgage application. The letter was clear that it wanted Mr T – not the broker - to upload the signed letter to its Mortgage Application Tracking System.

Mr T signed and dated the letter to confirm his address. He says he spoke to the broker about the letter and forwarded it to him as the broker had requested. Mr T didn't upload the signed and dated letter to Santander's Mortgage Application Tracking System himself. But as he'd signed it I think it's fair to say that he expected the broker to do that. Mr T didn't get in touch with Santander about the application until he'd been declined for another mortgage application in November 2020.

Mr T's representative has suggested that Mr T wasn't wrong to sign and date the letter Santander sent. He says Santander didn't ask Mr T to confirm that contents of the mortgage application were correct, and he has suggested that Santander should have sent Mr T a full copy of the mortgage application at that time.

I'm not persuaded Santander was required to do that. I don't think Santander had any

reason to suspect that the application hadn't been made by Mr T at that point. Mr T didn't ask to see the mortgage application before signing and dating the form, and he hasn't told us he asked the broker to see it despite thinking that he hadn't given the broker enough information to complete it. I think Santander could reasonably have expected Mr T to say something if he thought that an application had been made in his name in circumstances where he hadn't seen the application form or given his broker relevant information. I'm persuaded that by signing and dating Santander's letter and sending it to his broker Mr T did what he could to ensure that the application progressed.

I can see that Mr T's correct bank details (account number and sort code) were set out in the mortgage application. In a statement Mr T says the broker got this information from his credit report. But I can't see all that information on the credit report he has sent us. I'm conscious that in an earlier part of the statement Mr T said:

"[The broker] told me I could help me to apply for a mortgage and I provided him with my Experian credit report but no ID or bank statements - he told me to fill in the bank details and he would complete the rest."

It's not clear whether this is actually what happened. But I think it's likely, on the balance of probabilities, that Mr T did fill in his bank details on the mortgage application form or told the broker his bank details so that they could be used in the mortgage application.

Finally I will cover Mr T's representative's point that Santander would have realised that Mr T hadn't made the phone call in which the mortgage application was made if it had carried out the rigorous investigation it was required to do before putting the marker on the fraud databases.

I'm not persuaded that it would have realised this. Santander didn't have a relationship with Mr T before the mortgage application was made, so I'm not persuaded it should have known that the person on the phone who made the application and said he was Mr T wasn't who he said he was. I can see that Santander acted after this to confirm Mr T's identity. It sent Mr T the letter asking Mr T to confirm his address. As set out above, we know that Mr T signed and dated that even though he has told us he hadn't seen the mortgage application and didn't think he'd given the broker all the information he needed to complete it.

Having weighed up all the evidence and arguments very carefully, I don't think Santander acted unreasonably when it decided to record the entries it did on the fraud databases. I say that because I think Santander had a reasonable suspicion that Mr T was involved in the application. There's no dispute that false information was given to Santander in the mortgage application, and I'm persuaded that the markers were put on the databases because of that false information.

It follows that I can't reasonably ask Santander to remove those entries now.

I appreciate that Mr T is unlikely to be happy with my decision, but for the reasons set out above, I don't uphold this complaint.

My final decision

For the reasons set out above, 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 T to accept or reject my decision before 25 August 2022.

Laura Forster
Ombudsman