

The complaint

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

What happened

Mr A applied for a mortgage with Santander. Santander refused his application. Some time later, Mr A learned that it had also made an entry on the CIFAS database about him.

Mr A complains. He wants the marker removed. He says that he gave true information in support of his mortgage application. Santander didn't contact him to clarify anything at the time, but if it had done so he would have been able to provide any supporting information it needed. He said that he had been refused applications for other credit and had found the whole situation very stressful.

Santander said that it hadn't acted unfairly in putting the marker on the database. It said that it found discrepancies in the information Mr A had given about his income in support of his application. And it was unable to verify what he had said. When he complained, it asked him for further information about his finances to carry out further checks. But Mr A brought his complaint to us instead.

Our investigator looked into Mr A's complaint. She noted that Santander had found inconsistencies in the mortgage application. And she also found that what Mr A had said in support of his mortgage application was inconsistent with what Mr A had told Santander in a current account application the following year.

Mr A didn't agree, and asked for an ombudsman to make a final decision.

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.

In considering a mortgage application – like all lenders – Santander will review the application and supporting evidence. It considers whether its lending criteria are met, but also carries out various underwriting checks to confirm the accuracy of what it's been told and to decide whether the mortgage would be affordable and sustainable. And where it finds something of concern, it reports that to one of the fraud prevention databases.

CIFAS is one of the cross-industry databases. It enables the sharing of information across the financial services industry in the interests of fraud prevention. This is an important function. But as there are consequences for an individual in having an entry on the database about them, CIFAS requires that its members meet the required standard before doing so. Before making an entry, a firm must meet the standard of proof – which is that there must be clear relevant and rigorous evidence of fraud, such that a report could be made to the police or authorities for further investigation (whether or not such a report has actually been made).

The standard is not therefore that fraud has been proved. It is that there is reasonable suspicion that fraud has been committed or attempted. And in considering this complaint, I am deciding whether it was fair for Santander to decide that threshold had been met – and whether there is further evidence available now such that it ought fairly to remove the marker because the standard is no longer met.

Mr A applied for this mortgage, jointly with another party, in 2020. He declared that he was in employment, earning around £85,000. He said his employment had begun earlier that year, a few months before the application. He provided payslips and bank statements in support of the application.

The payslips Mr A has provided match the salary he declared, and his bank statements for the time show the salary on the payslips being paid into his bank account.

However, Santander was unable to verify Mr A's income independently. That's not necessarily surprising where the employment is recent. There might be other reasonable explanations for a failure to verify too. And for that reason, CIFAS has given guidance to its members that a mere failure to verify is not sufficient to justify a marker on the database – it should be a prompt for further enquiries to see if there is a reasonable explanation or not.

In this case, I can't see that Santander carried out any further enquiries. It simply declined Mr A's mortgage application and made an entry on the CIFAS database because of the failure to verify.

Santander was entitled to refuse the mortgage application. No lender has to accept an application or lend money. But I don't think recording the CIFAS marker was the fair thing to do, given the guidance CIFAS has given to its members. Santander should have carried out further investigation before deciding that a marker was justified.

I've therefore gone on to think about what Santander would have found had it carried out that further investigation at the time.

When Mr A complained, Santander said it would reconsider the marker if Mr A provided further financial information, including payslips and bank statements for the six months leading up to the application, as well as proof of his earnings for the last two years from HMRC.

Mr A did not give that information to Santander. And when our investigator asked for it, Mr A did not give it to her either. He said that he had given accurate information with the mortgage application, and the investigator should focus on what he had given Santander at the time. Anything else was not relevant as it was not part of his application.

Mr A did, however, provide a letter from HMRC setting out his proof of income. This letter sets out Mr A's employment history and income sources for the tax years 2019-20 and 2020-21. The letter shows income from the firm Mr A declared on his application and provided payslips for. It shows that this employment began in February 2020, around four months before the mortgage application, and that it ended in September 2020, two months after the application. The letter does not give any other employment income for those two tax years, and also says "*We have not got a record of any taxable income for you as a self-employed individual*".

In 2021, Mr A made a separate application to Santander for a current account. In that application, he declared that he earned £65,000 and had been in employment since July 2019. The employer he declared was different to the employer declared in the mortgage application in 2020.

Mr A told our investigator that he was a director of this other company and on its payroll. However, he said that there was no record of it on the HMRC letter and it wasn't mentioned on the 2020 mortgage application because *"my wages for those years were below payroll threshold which do not need to be processed for payroll with HMRC... I could legally have more than one source of income but use the one which was sufficient enough to full fill Santander requirements"*.

I've checked Companies House records, and Mr A was a director of this other company at the time. But if Mr A was receiving any income from this other company in 2020, whether below *"payroll threshold"* or not, I would expect it to be shown on the HMRC letter setting out his taxable income for that year – since the employment which is included has the full personal allowance associated with it, any further income from this other firm would be taxable however little it was. But the HMRC letter doesn't show any employment income from this firm, or any self-employed income, including after his employment with the firm declared on the mortgage application ended.

And, as our investigator also pointed out, the mortgage application asked *"Do you have any other income besides your basic salary"*. Mr A answered *"No"*.

As I say, when Santander was unable to verify Mr A's income as part of its consideration of his mortgage application, I'd have expected it to carry out further enquiries before putting an entry on the CIFAS database. But I also need to think about what it would have found had it carried out those enquiries – and about whether it's fair to ask it to remove the marker now. It would only be fair to do so where I'm satisfied that it's clear the threshold is not met.

I've taken into account Mr A's reluctance to provide further evidence when asked both by Santander and by our investigator. I've taken into account the contradictions between what he said on the 2020 mortgage application and the 2021 bank account application, as well as the other matters I've set out above. And, in all the circumstances, I don't think I can fairly ask Santander to remove the marker now.

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 A to accept or reject my decision before 19 October 2022.

Simon Pugh
Ombudsman