

The complaint

Mr M complains that HSBC UK Bank Plc (“HSBC”) made an entry about him on the CIFAS database in connection with a mortgage application.

What happened

Mr M applied for a buy to let (“BTL”) mortgage with HSBC in 2021, using a broker. HSBC declined the application and left a marker on fraud prevention databases, including the CIFAS database. The CIFAS database is a cross-industry fraud prevention database which allows financial services providers to share relevant information, subject to safeguards.

Mr M complained to HSBC about the markers.

HSBC said it had not done anything wrong. It told us that an altered/false bank statement was provided to it as part of the application process.

Mr M says he didn’t provide the altered/false bank statement to HSBC. He says the broker provided the information without his permission. He has reported the matter to Action Fraud and provided the Financial Ombudsman Service with details of the information he gave to the broker. He says he earned more than £150,000 in the 2020/2021 tax year, so he had enough money to get the mortgage without making a fraudulent application.

After Mr M complained to the Financial Ombudsman Service our investigator considered all the information that had been provided to her and HSBC. She said that the broker acted as Mr M’s representative so she thought HSBC had sufficient evidence to apply the CIFAS marker. She didn’t recommend that it removed the marker.

Mr M remained unhappy and asked for his complaint to be reviewed by an ombudsman, so it has been passed to me to decide. More information was provided to our investigator by Mr M’s representative after she sent her view on his complaint, but that didn’t change her mind.

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.

When Mr M applied for the mortgage in 2021 HSBC considered the information and evidence it received in connection with mortgage application and carried out underwriting checks to try to confirm the accuracy of what it was told and to decide whether it wanted to lend. I think it’s worth saying here that there was no obligation on HSBC to lend money to Mr M. It wasn’t obliged to give reasons for refusing to do so either.

In this case it appears that information has been recorded about Mr M on more than one fraud prevention database. Each database has its own standard of proof for putting a marker on them. But all fraud databases require lenders to have reasonable grounds for adding a marker.

The standard of proof for putting a marker on the CIFAS database is that there must be clear, relevant and rigorous evidence of fraud, such that HSBC could confidently report the matter to the police or other authorities (whether or not it has actually done so).

The standard required is therefore one of reasonable suspicion, not proof. But there must be evidence of fraud. There are various fraud offences, but a common feature is acting dishonestly for financial gain.

Having weighed up all the evidence and arguments here very carefully, I can understand why HSBC had concerns about the information it had been given in connection with the application. HSBC has explained how it thought the bank statement at the centre of this complaint was altered to show there was more money in Mr M's bank account than there actually was. Mr M has said he didn't provide that statement to his broker or HSBC and that he had enough money to get the mortgage without committing fraud. But that in itself doesn't demonstrate that Mr M wasn't responsible for HSBC being provided with the altered bank statement.

Mr M's representative has said there's a lack of evidence in this case because the broker left the firm he was working for around the time of Mr M's mortgage application, so relevant emails were lost. However, I can see that HSBC has considered all the evidence provided to us in connection with this complaint as I would expect it to do. It told us it contacted the business the broker used to work for and took steps to investigate the broker's actions. Having done so it still suspected Mr M of acting fraudulently. I've no reason to question what HSBC has told us about its contact with the business the broker used to work for.

Taking this matter as a whole I'm satisfied that HSBC met the standards required to put the markers on the fraud prevention databases. So, I can't say it would be fair and reasonable for me to require HSBC to remove the markers now.

I recognise that this decision is likely be disappointing for Mr M. But based on what I've seen, it wouldn't be appropriate for me to require HSBC to do anything to resolve this complaint.

My final decision

For the reasons set out above, my final decision is that that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 March 2023.

Laura Forster
Ombudsman