

The complaint

Miss M's complaint is that Santander UK Plc has incorrectly registered a fraud marker against her on the National Hunter database.

To settle the complaint Miss M wants the marker recorded against her to be removed by Santander.

What happened

I won't set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat all the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Miss M being identified.

So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

In March 2023 Miss M applied for a mortgage with Santander, through her own independent financial adviser, a firm I will refer to as BGM. In common with applications submitted through intermediaries, the application was submitted online through Santander's intermediaries portal, so there was no signed paper form. However, the application contained information which BGM confirmed to Santander had been provided by Miss M. As part of the application, Santander was given details of a firm (HB) which BGM said was Miss M's accountant.

A certificate was provided by HB to Santander stating Miss M's net income as being £71,050. Upon further enquiry, Santander had cause to question the veracity of the accountant's certificate. The mortgage application was declined and Santander registered a fraud marker against Miss M on the National Hunter database.

Miss M complained, saying that she had no knowledge of HB. She said all the information in the mortgage application had been submitted to Santander on her behalf by BGM. Miss M said that it would have been best practice for Santander to have contacted her to discuss the matter directly with her, before recording a fraud marker against her. Or, at the very least, Santander should have notified her of its intention to do so. Miss M says that, had these measures been taken, the fraud committed by BGM would have been uncovered.

Santander didn't uphold the complaint. The bank said that it required Miss M to report the fraud she was saying had been carried out by BGM to the regulator, the Financial Conduct Authority (FCA). Once the report had been registered with the FCA and Santander had been provided with further information about this, the bank would consider the matter further.

Miss M raised her complaint with the Financial Ombudsman Service. An Investigator looked at what had happened but didn't think the complaint should be upheld. He was satisfied that,

given Santander had been provided with false information, it was reasonable for the bank to decline the application and register the marker.

Miss M disagreed and asked for an Ombudsman to review the complaint. Miss M says that, while she could have questioned the process more thoroughly, her lack of understanding left her feeling confused and vulnerable, particularly as she had paid a professional to assist her.

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'm afraid I have disappointing news for Miss M; I'm not upholding the complaint. These are my reasons.

First of all, Santander is entitled to accept information provided to it during the course of a mortgage application in good faith. If a mortgage application provides the details of an accountant, Santander is under no obligation to question this until there is reason to do so. In this case, Santander didn't feel the accountant's certificate stood up to scrutiny, as a result of which the marker was registered against Miss M.

Miss M says she has no knowledge of HB, and has never used them as her accountant. Miss M says that Santander was provided with false information by BGM, not her.

If I am to accept what Miss M says about this, then I'd have expected her to have pursued complaints against BGM via the FCA (as Santander explained) and against HB through their professional body, or to have reported both BGM and HB to the police. I've been provided with no evidence that Miss M has followed any such course of action. Santander has said that if Ms S was to report BGM to the FCA for fraud, and provide further information, it would reconsider its position. I think this is reasonable.

Santander was under no obligation to contact Miss M directly to discuss the matter. This was an application submitted via an intermediary and in those circumstances the lender will have no direct contact with the borrower. This is particularly so if, as in this case, the lender has a reasonable suspicion that false information has been provided.

There was also no requirement for Santander to warn Miss M that it was intending to register a fraud marker against Miss M. That would defeat the purpose of a fraud database.

Therefore, whilst I have some sympathy for the position Miss M has found herself in, I'm unable to find that Miss M has taken any steps to mitigate her position by pursuing complaints against the parties she considers responsible for the fraud marker registered against her by Santander. As a result, I'm not persuaded it would be fair or reasonable to order Santander to remove the marker registered against her.

The organisations that keep the registers of fraud markers – National Hunter, CIFAS, etc. – are not members of the Financial Ombudsman Service. So whilst I've noted that Miss M wants us to arrange for the fraud markers to be removed, this isn't something that falls within the scope of the Financial Ombudsman Service. Individuals who have had entries against them that they consider to be incorrect can challenge this with National Hunter or CIFAS, but need to go through the complaints process with the business that registered the entry. This final decision is the last stage of our process in the complaint against Santander. If Miss M still believes the entry registered against her by Santander is unjustified, she will need to

raise this direct with the agencies concerned, who will follow their own internal processes to determine whether or not the entries should be removed.

My final decision

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 17 December 2024.

Jan O'Leary
Ombudsman