

## **The complaint**

Mr H complains that Skipton Building Society unfairly uploaded a marker about him to the National Hunter database.

## **What happened**

In October 2023 Mr H and his partner applied for a joint mortgage with Skipton. Skipton declined their application because it says it found inconsistencies between Mr H's partner's declared income and the evidence supporting it. And Skipton uploaded markers to the National Hunter fraud prevention database about both Mr H and his partner.

Mr H complained to Skipton about the uploaded marker. In its final response letter dated 20 December 2023, Skipton didn't uphold Mr H's complaint, and it didn't remove the marker. That letter explained to Mr H his rights to refer his complaint to this Service. However, Mr H said he didn't receive that letter, so engaged legal representation.

Mr H's legal representative referred his complaint to us. At that time the representative said the only resolution Mr H sought was the removal of the marker.

Following the referral of the case to us, Skipton made an offer to resolve the matter. It's my understanding that, on 25 July 2024 it offered to remove the marker that related to Mr H. It has also offered to pay him £350 for the inconvenience caused. It said it shouldn't have uploaded a marker in relation to Mr H as the application inconsistencies only related to his partner.

Our investigator explained Skipton's offer to Mr H's representative in a letter dated 25 July 2024. Our investigator said he thought the offer was fair because it achieved what Mr H's representative had told us he wanted, and our investigator hadn't been made aware of any wider impact. He also said the marker was of a type that would only have been visible to Skipton and not other users of the database.

Mr H's representative rejected Skipton's offer. He said the marker would have been viewable by other prospective lenders as it was uploaded to the National Hunter database. So, Skipton's action resulted in Mr H losing the opportunity to buy the property he'd wanted to buy with his partner in October 2023. And there was a £2,400 cost to Mr H for engaging the services of the representative. That was one third of the representative's total fee, as the representative was also engaged in relation to markers uploaded by two other lenders. The representative said he expected us to order Skipton to pay his fee and he submitted evidence of a broker fee and a survey fee paid by Mr H that Mr H also wanted to be compensated for.

Our investigator said there is a marker type that can be uploaded to National Hunter that is only viewable by the uploading lender. And he was persuaded by the evidence that was what had been uploaded in Mr H's case. So that marker wouldn't have impacted other applications. Our investigator also said he thought Skipton had considered Mr H and his partner's application for a mortgage fairly and it had a right to decline their application. So, he didn't think Skipton should refund the fees paid by Mr H relating to him making the

application. He also confirmed we do not award costs incurred by a consumer for engaging a representative to refer a complaint to us.

Mr H's representative didn't accept our investigator's view. He asked that an ombudsman considers his request for payment of his fee. So, Mr H'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.

From Mr H's representative's most recent correspondence, it appears that the only matter to be decided is whether Skipton should pay Mr H £2,400 to cover one third of the fee charged by the representative for bringing his complaint to us. However, in the interests of completeness, I've also thought about whether Skipton's offer, more generally, is a fair resolution to Mr H's complaint.

#### **Skipton's offer**

There appears to have been some contention about the visibility of the marker Skipton uploaded in relation to Mr H. The National Hunter database allows markers to be added on what is known as a 'suspect' level. That means a lender (in this case) can create a marker based on a suspicion but does so for its own use. So, at the 'suspect' level, the marker isn't viewable by other potential lenders (or anyone else apart from the subject of the marker).

In this case, Skipton has confirmed that it uploaded a marker about Mr H on a 'suspect' level because of his partner's income submission. It says the declared income didn't match the evidence she provided. However, because the suspicion arose from Mr H's partner's submission – and not his – Skipton acknowledged that it shouldn't have uploaded a marker about Mr H.

From the evidence provided by Skipton, I'm persuaded that the marker was uploaded at the 'suspect' level. So, I'm also persuaded that it wouldn't have been visible to other potential lenders. Mr H's representative has indicated that Mr H had other applications declined by other lenders. But as other lenders would not have been able to view the marker uploaded by Skipton, I don't think Skipton's error had any bearing on the lending decisions of other potential lenders. As I think those applications failed independently, I don't think Skipton's error caused Mr H to miss out on the property purchase opportunity.

I think it's also reasonable to conclude that, if affordability for a mortgage based on the property in question relied on the un-evidenced income of Mr H's partner, it's more likely than not that they would not have been able to successfully complete a purchase on that property in any event – particularly as mortgage applications elsewhere failed.

Mr H's representative has asked that the costs Mr H incurred in relation to mortgage broker fees and survey fees be paid by Skipton. The costs of a survey booked by a lender can sometimes be avoided if the application doesn't get through underwriting. But it appears from the evidence submitted by Mr H's representative that the survey was carried out independently of Skipton. So, Skipton wouldn't have had any control over when in the process the survey was carried out.

While it's unfortunate that Mr H incurred the fees he has, Skipton was free to decline his mortgage application. And, like our investigator, I think, from the evidence available, Skipton considered the application fairly. Irrespective of whether Skipton incorrectly uploaded a

marker about Mr H to the National Hunter database, it's reasonable that his application failed if income it relied upon could not be verified. So, I don't think Skipton caused Mr H to incur the fees he paid to his broker and surveyor.

I appreciate the marker Mr H found on the National Hunter database would have caused him some distress and inconvenience. But I think Skipton's offer of £350 to compensate him for that is fair under the circumstances and is in line with our guidance on this type of award.

#### The fees charged by Mr H's representative

Mr H's representative has asked us to consider directing Skipton to pay Mr H £2,400 to cover one third of his fees.

The rules under which we operate – the Financial Conduct Authority's dispute resolution rules (known as DISP) – state the following in relation to such costs:

#### **DISP 3.7.9**

*A costs award may:*

- 1. be such amount as the Ombudsman considers to be fair, to cover some or all of the costs which were reasonably incurred by the complainant in respect of the complaint; and*
- 2. include interest on that amount at a rate and as from a date specified in the award.*

#### **DISP 3.7.10**

*In most cases complainants should not need to have professional advisers to bring complaints to the Financial Ombudsman Service, so awards of costs are unlikely to be common.*

Due to the above rules, we usually wouldn't direct a respondent business to pay the cost in question here. But I have considered the circumstances of this complaint to decide whether I think they are exceptional.

Mr H says he didn't receive Skipton's original final response letter of 20 December 2023. But the copy of it I've received was addressed correctly and I've no reason to believe that it wasn't sent – aside from Mr H's testimony that he didn't receive it. So, I don't think Skipton was the cause of him not receiving referral rights to this service.

I understand that Mr H may not have known what to do, having not received Skipton's final response letter. But it was his choice to engage a legal representative. I think the existence of our Service would have been evident to him from minimal research. So, I don't think Mr H incurred his representative's fee because he had no other options.

As our investigator explained, our Service is free, and it's designed to be easily accessible. I've seen no suggestion that Mr H was unable to access it because he was restricted by health or was incapacitated in some way. So, I wouldn't conclude that he needed the help of a representative – be that a professional or other.

As I don't think Skipton was the cause of Mr H not receiving referral rights and I don't think he needed to engage the services of a professional representative in any event, I don't think Skipton should pay him to cover the associated cost.

### In summary

Overall, I think Skipton's offer is reasonable, having considered the likely impact of its error. And, for the reasons explained, I don't think it's reasonable to expect Skipton to pay Mr H's costs for engaging a professional representative

### **Putting things right**

Skipton Building Society should pay Mr H the £350 it has offered to resolve his complaint, if it hasn't done so already. It's my understanding that it removed the marker in question in July 2024, but if it hasn't done so, it should do without delay.

### **My final decision**

My final decision is Skipton Building Society should take the action it offered – as outlined in the "putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 14 February 2025.

Gavin Cook  
**Ombudsman**