

The complaint

Mr K complains that The Mortgage Lender Limited (TML) unfairly recorded fraud markers after he applied for a mortgage. He asks that the fraud markers are removed.

What happened

Mr K applied to TML for a buy to let mortgage in late 2024. TML declined the application. Mr K says TML recorded a fraud marker based on outdated and inaccurate information it found in an online search and failed to verify. Mr K says this prevented him securing a mortgage and caused him financial distress.

TML said it had acted appropriately when it declined to lend and recorded information with SIRA.

Our investigator said it wasn't fair for TML to record the marker. However, he said he couldn't say that this was the reason other lenders declined Mr K's applications. Our investigator said TML should remove the marker and pay compensation of £250 for the distress and inconvenience.

TML didn't agree. It said it was required to share information with SIRA, with the intention of protecting the integrity of the financial system. It said there was no limit on where the information could come from. TML said the information it shared was for information purposes and wouldn't necessarily result in an application being declined.

Mr K agreed that the marker should be removed and provided further comments and information to support this.

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.

A broker submitted a mortgage application to TML on behalf of Mr K. They answered "no" to the question whether Mr K had been convicted of certain offences. Mr K says TML recorded the marker at SIRA because it found reference on-line to a conviction which was later quashed. I understand the point made by Mr K: the question in the application form was answered correctly because he doesn't have a conviction.

I can't set out in detail what TML told us about why it recorded the marker. TML provided information and evidence to us in confidence. This decision will be published. It wouldn't be right for me to reveal information about SIRA's processes or a lender's processes that might undermine the systems put in place to protect against financial fraud.

What I can do is review the information TML provided, to decide if I think it acted fairly in the circumstances.

Mr K provided a page from a subject access request that shows TML recorded a "refer" marker with SIRA. This warns other SIRA members of a potential issue. They can ask TML

for information about why it recorded the marker.

Our starting point is that a financial business should only record information with a fraud prevention agency if it's got enough evidence to satisfy the fraud prevention agency's rules and burden of proof. It must have carried out thorough enough checks to do this. It must keep a record of its evidence.

TML says our investigator interpreted SIRA's rules too narrowly when he said they hadn't been met. It said the rules allow the inclusion of publicly available data in a submission, provided it is used in a legitimate fraud prevention or risk assessment context.

Having considered what happened here, I don't think TML acted fairly when it recorded the information with SIRA.

I think it's fair for TML to take information provided by third parties or which is publicly available into account. That seems to me to be a legitimate part of a process to assess and test the reliability of information provided by an applicant. However, I think when TML recorded the marker with SIRA it relied too much on information that is publicly available and failed to question it.

I don't think TML demonstrated it had a reasonable basis to be concerned that Mr K's application in late 2024 was fraudulent or that the information he supplied was dishonest.

I think it's unfair for TML to rely on events related to a quashed conviction to record information with SIRA. The Court of Appeal quashed the conviction on the basis Mr K's mens rea (intent to commit the crime) wasn't proven.

As I understand it, a refer marker is in place for six years. A criminal conviction would be spent after a certain amount of time. That allows individuals over time to leave the adverse data behind. But here, TML recorded a marker more than 15 years after Mr K's conviction was quashed. That has the effect of keeping the adverse data live, and it's not consistent with him being able to move forward with his life.

Other lenders can contact TML for information as to why it recorded the marker. But I think while the marker is in place there's a real risk that lenders might assume it was recorded as a result of something that happened with Mr K's mortgage application in 2024. That's not a fair reflection of what happened.

It seems to me that the purpose of recording information with SIRA is to share with other lenders information that wouldn't otherwise be available to them – such as dishonesty in an application. That doesn't apply to information that is publicly available, and I've seen nothing to indicate that Mr K was dishonest in his application to TML. Whether other lenders routinely search for such information is a matter for them, and their own processes.

Putting things right

I think TML should remove the marker from SIRA. If it recorded markers related to Mr K's mortgage application in 2024 with any other fraud prevention agencies it should remove them.

It's difficult to know how other lenders have viewed the marker. I can't fairly find that any problems Mr K has had securing a mortgage or credit is due to the marker without evidence this is the case.

But I do think the marker caused Mr K distress and inconvenience. Having a fraud marker

could harm his reputation and ability to obtain credit, and this is likely to cause worry and embarrassment. Mr K had to raise subject access requests to find out what happened and bring a complaint to this service. I think TML should pay £250 compensation for this.

My final decision

My decision is that I uphold this complaint and order TML to:

- Remove the marker from SIRA and any other fraud prevention agencies; and
- Pay £250 to Mr K.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 7 October 2025.

Ruth Stevenson
Ombudsman