complaint

Ms C complains that the registration of her details on the CIFAS database by Santander UK Plc is unfair.

background

Ms C had a mortgage with Santander. Because of what Santander thought was suspicious activity on her account, it registered a fraud record against her name on to the CIFAS (the UK's fraud prevention service) database in December 2014. Our adjudicator did not recommend that this complaint should be upheld as it was reasonable for Santander to do so given the way the account was managed. Ms C disagreed saying in summary that she shouldn't be accused of fraud.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Santander had concerns about suspicious activity on this account. Over a 2 month period, on 9 separate occasions Ms C's father sent a total of 24 cheques to Santander. All but one of these cheques bounced. The effect of the sequence of the cheques was to create an impression on the account that it was being paid when that was not in fact the case. Santander, when it saw this activity, decided that there was a suspicion of fraud and put a record on the fraud database.

I have to consider whether it was reasonable for Santander to do so. There seems to be alternative explanations for what happened. Ms C's father says that they were genuine attempts to pay money off the account. The alternative explanation was that the volume and sequence of cheque payments created a false impression of how the account operated. Basically before one cheque bounced and the account showed as arrears, another one was paid into the account. This again prevented the account showing as arrears. Before that cheque bounced another one was presented and the sequence continued. According to Ms C in her letter to me of 21 July 2015, this is what CIFAS told her although she says it is "nonsense". She says "no reputable bank treats funds received as having brought an account up to date until such cheques cleared." But whilst the cheque is clearing, the account will record the payment as made and show any arrears as reduced by this payment. The situation will revert if the cheque bounces unless, of course, it is replaced by another cheque.

The problem with the first explanation is the volume of cheques presented. Ms C's father says that multiple cheques were sent because he had received cheques in his business and if only one cheque would clear then Santander would get the benefit of it. This might provide an explanation if one or two cheques were issued but it is not a reasonable explanation for issuing 24 cheques in the hope that some might clear.
In her letter to me of 21 July Ms C says that her father assured her that he believed "that the cheques would clear when sent". I consider that might be a reasonable explanation if there were a small number of cheques and only one bounces. I cannot accept that this was likely where 24 cheques were issued and all but one bounced. So, I consider that the most likely explanation for these multiple bounced cheque payments was to disguise the true position of the account.

Ms C says that in any case she knew nothing about-and could not be held responsible for-her father's activities. She does say that she was aware of some of her father's activities on

her account during this period but not all. The problem of course is that this was Ms C's account and she is responsible for the way it was managed. As I consider that the purpose of the multiple cheque payments was to disguise the true position of Ms C's account that purpose would seem to have been intended to benefit Ms C. For these reasons I do not consider that it was unreasonable for Santander to have referred Ms C's account to the CIFAS database. As a result I cannot fairly uphold this complaint.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms C to accept or reject my decision before 5 October 2015.

Gerard McManus
ombudsman