

complaint

Mr K complains that Santander UK plc registered him as making a fraudulent mortgage application on Cifas' (the UK's fraud prevention service) database. The complaint is brought on his behalf by his wife.

background

When Mr K visited a Santander branch to open a bank account, he was passed to a mortgage advisor to discuss his current arrangements. Mr K's main residential mortgage had a variable interest rate and he was interested in moving it to a fixed rate. The application asked:

"Does Applicant Have any other Mortgages on any other Properties at Present?"

The answer was recorded as "No". When Santander carried out a credit check, it noted that Mr K did have another mortgage. It rejected his application and recorded a fraudulent application with Cifas. Mr K became aware of this around 18 months later when he tried to apply for credit with another business.

our adjudicator's view

Our adjudicator did not recommend that the complaint should be upheld. He concluded that the question was reasonably clear and unlikely to be misunderstood and that there was no evidence to show that Mr K had declared any other mortgages. Whatever Mr K's reasons for not answering this question correctly, the adjudicator did not think it was due to an error by Santander. So he did not think Santander should be asked to remove the fraudulent marker.

my provisional decision

The Cifas database allows businesses to share details of product applications which are considered to be fraudulent. The record does not mean that the individual is blacklisted, but other businesses will take extra precautions to ensure any applications made to it are genuine. Santander has an obligation to report any applications which it suspects may be fraudulent. But I was minded to conclude that it should not have made a report in this case.

I couldn't be certain what was discussed on the two occasions Mr K visited the Santander branch. It seemed the application was completed during the first visit and then Mr K was asked to return with supporting paperwork. When he visited the branch on the second occasion, the mortgage advisor was no longer working there, so it seemed he simply handed the paperwork over without further discussion.

The "Application Summary Report" provided by Santander was a typed record of Mr K's application and showed he did not declare any other mortgages. There were a number of possible reasons for this – he may not have been asked the question, the answer may have been wrongly recorded, Mr K may have misunderstood the question (English is not his first language), or he may have deliberately concealed the fact that he had another mortgage. After careful consideration I was minded to conclude that the last possibility was the least likely.

I said this because there was nothing to suggest he concealed that his entire income was from property rental. Also, he already had a mortgage and it was Santander that approached him to ask if he was interested in discussing his mortgage arrangements. So he didn't visit the branch with the intention of applying for a mortgage – and did not need one. This was supported by the fact that he took no further action when he was told his application had not been successful.

I hadn't seen anything signed by Mr K to confirm that the information recorded on the "Application Summary Report" was accurate. And there was no evidence, except for the typed "No", that Mr K falsely told the bank he did not have another mortgage. Mr K's employment was not recorded – but his only source of income was property rental income and he provided evidence of this in the form of signed statements from his accountant. Although the income statements themselves did not provide evidence that Mr K had other mortgages, Mr K's actions in providing these statements did not suggest to me that he was deliberately trying to conceal information about mortgages on other properties from Santander.

So I thought Santander should have considered all the circumstances of this application before it recorded a fraudulent application with Cifas. And that, had it done so, it would not have completed a fraud report. I thought it should remove the report and pay Mr K £100 for the trouble and upset caused.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Neither Mr K nor Santander has provided any fresh information or evidence in response to my provisional decision. I therefore find no basis to depart from my earlier conclusions.

my final decision

My final decision is that I uphold this complaint. In full and final settlement, I order Santander UK plc to:

1. Remove the fraudulent application report.
2. Pay Mr K £100 for the trouble and upset it has caused.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to accept or reject my decision before 7 August 2015.

Elizabeth Dawes
ombudsman