

complaint

Mr A complains that OneSavings Bank Plc (OSB) unfairly added information about him on to national fraud prevention databases.

background

Mr A applied for a mortgage with OSB in February 2017. This was declined. OSB told Mr A this was because of information provided by a third party.

Mr A then made subject access requests to find out what information was held about him on the Credit Industry Fraud Avoidance System (CIFAS) and National Hunter databases. The responses, received in March 2017, showed that OSB had entered information on both databases to say Mr A had applied for a mortgage with them and had been declined.

Mr A complained to OSB. They told him he'd signed a declaration form which gave permission for OSB to seek information from third parties. They also said they were entitled to supply information they believe is relevant. And they said the information they'd provided was accurate.

OSB later wrote to Mr A to tell him that they had removed their entry from the CIFAS database.

Mr A was unhappy with this outcome and complained to us. Our investigator looked into it and took the view that OSB had not acted unreasonably or unfairly. Mr A disagreed and asked for an ombudsman to make a final decision.

I disagreed with our investigator's view. So I decided to issue a provisional decision to allow both parties to comment on my thinking before I made my final decision.

In response to that, Mr A raised some questions about what I'd said OSB would need to do to put things right. I issued a further provisional decision to address Mr A's concerns and to allow both parties to make any further comment they wished to make before I make my final decision.

my provisional findings

In my first provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

There is no dispute that after declining Mr A's application, OSB made entries onto the two databases.

The CIFAS entry was later removed by OSB. So I'm satisfied OSB have already put things right for Mr A by removing the information. And there is no suggestion that this information had any adverse impact on Mr A during the brief period it was available via CIFAS.

What I have to decide now is whether it's fair and reasonable for OSB to have entered the information that they did onto the National Hunter database.

It's my understanding the primary purpose of the database is to allow member organisations to share information. I also understand that National Hunter's rules allow for data to be retained for up to six years.

The data entered onto National Hunter by OSB has a status which indicates that they have a reasonable suspicion that Mr A provided inaccurate information in making his mortgage application to them.

However, the detail that they go on to provide does not relate directly to his application. It refers to information previously provided by third parties to National Hunter and other databases. Some of that data from National Hunter is now more than six years old – so the original entry should have been deleted.

At the moment, I have no information or evidence to suggest that Mr A provided inaccurate information to OSB during the process of applying to them for a mortgage.

If OSB do have reasonable grounds to suspect that Mr A provided inaccurate information in his application to them, they now have an opportunity – before I make my final decision – to tell us what this information is and why it is inaccurate.

Otherwise, I'll conclude that their provision of data to National Hunter was unfair and unreasonable in all of the circumstances. And I'll direct them to remove the National Hunter entry relating to Mr A.

On that basis, I said that I intended to uphold the complaint. And I said to put things right, OSB should remove the data about Mr A from the National Hunter database.

the responses to my first provisional decision

Neither OSB nor Mr A made any further comment about my intention to uphold the case. And I've got no reason to change my view that the National Hunter data entry should be removed.

Mr A did however say that he thought he should be compensated financially because of the effect the National Hunter entry had on him.

He said the National Hunter entry prevented him from entering into a contract with an investment group which would have given him an income of £5,000 per month, from mid-September 2017.

He also said that he'd lost rental income on the property he intended to buy with the OSB mortgage he'd applied for. He calculated those losses to be just over £750 per month (from April 2017).

He also wanted back the £705 he spent on the mortgage application – for valuation and processing. And he wanted to be compensated for his loss of reputation.

my second provisional decision

In my second provisional decision, addressing these issues, I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint, including all of the information provided by Mr A in response to my previous provisional decision.

It's my understanding that OSB turned down Mr A's application on the basis of third party information legitimately available to them at the time. Mr A's current complaint to us is about what OSB then did when they entered information onto the CIFAS and National Hunter databases. We confirmed this with Mr A during our investigation.

So, OSB's decision to turn down Mr A's application hasn't been the focus of our investigation – and in any case, the decision whether to lend to an applicant is one they are entitled to make. So, I'm not going to instruct OSB to compensate Mr A for any loss of anticipated income – or for fees he paid as part of the application.

I've made some further enquiries about Mr A's contract with the investment company. The investment company aren't registered at Companies House. Mr A provided copies of letters from the investment company to him. As well as a contract with the company which he said had been suspended because of the OSB entry on the National Hunter database.

The letters contain contact details for the company – a phone number and two addresses, one in Scotland and one in the British Virgin Islands.

We've called the phone number several times and got no reply.

Searches against the address in the British Virgin Islands don't show a company with the name given by Mr A.

The address in Scotland is a virtual office. The telephone number for that office is publicly available. When we called and asked to be put through to the investment company, we were told that there was no such client at that address.

The two letters and the contract are signed by the Director of the investment company. As is usual, his name is typed underneath the signatures. There are two different spellings of the Director's first name in those documents. I think it's very unlikely a commercial company would make such a mistake on contracts and/or on letters about legal contractual arrangements.

Taking all of that into account, I have no satisfactory evidence that there is an investment company, which would have entered into a contract with Mr A had it not been for the OSB National Hunter database entry. So, I'm not minded to award compensation as I don't have sufficient evidence to support the losses Mr A has claimed.

Nor do I have any evidence to suggest that Mr A's reputation has suffered as a result of the OSB National Hunter entry. There's no suggestion that anyone but the investment company have seen – and acted on – that entry. And according to the copy letters provided by Mr A, that company were perfectly willing to enter into a contract with him as soon as the entry was removed. So, the evidence doesn't suggest his reputation has suffered with them.

In summary, I'm not minded at the moment to change my original provisional decision in this case.

the responses to my second provisional decision

OSB made no further comment after receiving my second provisional decision.

Mr A provided further information to support his view that he should be awarded compensation.

He said that the organisation who had offered him the £5000-per-month contract weren't a limited company, but rather an investment project. So, they would not be registered with Companies House.

He pointed out that in previous correspondence the representative of the project had told him they were moving from the virtual office in Scotland. So it was unsurprising that they could not be contacted there.

He also provided two copy letters. The first is from the investment group's administrator. It says that in the absence of the Director who had signed the contract and previous letters to Mr A, the administrator had asked another member of the investment group to write to Mr A to confirm the information about the contract. This letter has a new address for the investment group.

The second copy letter is from a Director of a company in South Africa. It says he is one of the investors involved in the project. And he confirms the contract would have been awarded had Mr A's details not been on the National Hunter database.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. This includes all of the information provided by Mr A in response to my previous provisional decisions.

Mr A has given no further information or comment about his potential loss of earnings due to the mortgage being declined by OSB – or about the fees associated with his application. So, I have no reason to change my previous view on these matters.

Nor has Mr A provided further information to demonstrate reputational loss as a result of OSB's entry on the National Hunter database. So, again, I have no reason to change the view set out in my provisional decision.

Mr A is right to point out that previous correspondence from the investment project suggested they were about to change address. The new address for the investment group is a PO Box number. The telephone number for the group given on the correspondence hasn't changed. And that number is still out of service. There is no email address given.

We're told the Director who signed the contract and the previous letters to Mr A – whose name was spelt in different ways on those documents – is now absent.

So we contacted the South African company whose Director provided the latest letter to Mr A confirming the investment group's position. The letter is on company headed paper and

clearly states that the writer is a Director of that company. The owner – and sole Director - told us there is no Director of their company with that name.

In summary, I still have no satisfactory evidence that there is an investment company, which would have entered into a contract with Mr A had it not been for OSB's National Hunter database entry. Mr A has been given opportunity to provide further evidence in response to my two previous provisional decisions.

Having reconsidered all the evidence and information, I'm not going to change my decision. OSB made an error in adding Mr A's details to the National Hunter database. And they need to put things right by removing that data. I'm unable to ask OSB to pay Mr A compensation as I haven't seen sufficient evidence to show Mr A suffered a loss as a direct result of the information OSB recorded on National Hunter.

my final decision

For the reasons given above, I uphold Mr A's complaint against OneSavings Bank Plc.

I require OneSavings Bank Plc to contact National Hunter and ask it to remove the marker which they placed on Mr A's record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before

Neil Marshall
ombudsman