

The complaint

Mr P complains that Principality Building Society unfairly recorded a marker against him with National Hunter, a fraud prevention agency, following a mortgage application.

Mr P has brought this complaint via a representative.

What happened

Mr P says he had discussions with a mortgage introducer after he had struggled to secure a mortgage himself because of his poor credit history. He says he provided the introducer with some documents and paid him a fee. A mortgage application was then submitted to Principality in June 2020 by a mortgage broker, who Mr P says he had never met or spoken to. Mr P says he was not aware of the application and the introducer stopped answering his phone or returning his emails. Mr P says he contacted the police as he'd been paying money to the introducer and never heard from him again.

Mr P later applied for a new bank account, but his application was declined. He found that a fraud marker had been recorded against him with CIFAS, a fraud prevention agency. He discussed what had happened with a solicitor's firm, and they submitted Data Subject Access Requests (DSARs) to Principality and the introducer in 2022 on Mr P's behalf. Mr P discovered that inaccurate Her Majesty's Revenue & Customs (HMRC) documents had been submitted to Principality in support of a mortgage application that he says he had never seen. The documents had been certified by the broker who Mr P says he never met or spoke to. In response to the DSAR the introducer said he didn't hold any information about Mr P.

In July 2022 Mr P complained to Principality about the fact they had recorded a marker against him with CIFAS in relation to a mortgage application that he was not aware of. Principality didn't uphold the complaint, and so Mr P complained to CIFAS directly. In October 2022 CIFAS told Mr P that Principality had removed the marker.

Mr P says he continued to experience problems trying to open a bank account and so made some enquiries with other fraud prevention agencies. In January 2023 National Hunter confirmed that Principality had recorded a marker against Mr P on its database in June 2020. Mr P complained to Principality again in February 2023 asking them to remove the marker.

Principality responded on 9 February and explained that as part of the checks they carried out on Mr P's mortgage application, they received confirmation that one of the documents submitted to prove his income was unverified. As a result, they marked Mr P for fraud because he had provided false documentation to support his mortgage application and they are duty bound to record instances of fraud on The National Hunter database. They said the process was the same at the relevant time for the CIFAS loading. However, in August 2022 CIFAS changed their stance concerning decisions for certain third-party sources. That change didn't apply to Hunter. They said their loading would not be the sole factor in Mr P not being able to open a bank account, as companies must not base a decline decision solely on a Hunter loading from another party and must conduct their own investigation. Principality confirmed they would not remove the marker.

Mr P asked our service to consider the complaint. Principality told us that they downgraded the marker recorded against Mr P from 'fraud' to 'inconsistency' in July 2023.

Our Investigator looked into things and said that she didn't think Principality were acting unfairly by not removing the marker. Mr P's representative disagreed and asked for the complaint to be passed to an Ombudsman. He wasn't satisfied there was sufficient evidence that Mr P was involved in declaring false income to Principality. He said that English was not Mr P's first language which may explain some discrepancies in his testimony about what happened. He said Principality didn't have the required evidence to maintain the CIFAS marker, which is why they removed it. He said it cannot be fair for them to record a marker with National Hunter because the standard of proof is lower.

The complaint was passed to me to issue a decision.

My provisional decision

I issued a provisional decision on 20 February 2024. This is what I said.

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

Since this complaint was brought to our service, Principality have downgraded the marker recorded on the National Hunter database from 'fraud' to 'inconsistency'. So it's now for me to decide whether I think that is a fair resolution to Mr P's complaint. Having considered all the evidence and information surrounding Mr P's mortgage application, I'm satisfied the action Principality have now taken is reasonable.

There is no dispute here that Principality were provided with false documents to support a mortgage application made in the name of Mr P. Mr P has confirmed the income declared was not accurate and neither was the HMRC document evidencing that income. As a result, the document was not verified when Principality completed their checks, and so I think it's reasonable they had concerns about Mr P's application.

The fraud marker has been removed, and instead there is now a marker for 'inconsistency'. All parties accept this application was made fraudulently. And whilst I appreciate Mr P says he wasn't complicit in the fraud, I'm not persuaded on the balance of probabilities that was the case.

We will never know exactly what happened here, and I accept that it's possible Mr P was misled or misguided during the period he was trying to obtain this mortgage. But there are inconsistencies in the testimony Mr P has provided to his representative, CIFAS, and this service that make it difficult to argue that Principality have acted unreasonably here.

For example, there are conflicting accounts of Mr P's interactions with the mortgage introducer. He has said that he instructed him in the summer of 2020, paid him in cash, attended his premises and provided him with documentation such as bank statements. He said the introducer was keeping him updated about the application by email. In a different account about what happened Mr P has also said that following an initial phone conversation, he sent the introducer a number of documents by email, was told he would receive some paperwork to sign, but then never heard from him again and so he contacted the police. Also, Mr P said he only gave the introducer documents on one occasion (there are conflicting accounts about whether this was done in person or by email and when), but there were bank statements submitted to Principality which had transactions showing from July 2020, when the illustration was produced in June. Mr P has not claimed those bank statements were falsified, so it's unclear how Principality would have received them if Mr P had only given bank statements to the introducer before any application was made.

After the application was declined by Principality, another application was made to a different lender in Mr P's name. Mr P says he never spoke to the broker who submitted these applications, but there are detailed notes in the second application about why Mr P wanted

to go against the broker's advice in relation to which lender he should apply to. Whilst I appreciate these notes could have been falsified, I find it unlikely given the details contained in them.

Mr P's representative has told us that English is not Mr P's first language, and so that is likely the reason for any inconsistencies in his account of what happened, and I appreciate that may have made things harder for him. But I'm satisfied that given all the information and evidence provided, Principality are not acting unreasonably by recording that there were inconsistencies surrounding this application.

I understand Mr P says he's had difficulty opening a bank account because of the fraud marker that was recorded on the database previously with National Hunter. I'm sorry to hear about the challenges Mr P says he has faced. But I'm not persuaded those difficulties are a direct result of the action taken by Principality.

I say that because, when a bank is assessing an application for a bank account, they should carry out their own assessment in light of any marker that might be recorded against the applicant with a fraud prevention agency. They will consider many factors when deciding whether to accept an application, including credit history and the applicant's circumstances. Mr P has told us he has a poor credit history, so it's likely this factored into the decisions made in relation to his applications. As a result, I'm not persuaded Principality need to do anything more to put things right."

Responses to my provisional decision

Principality said they had nothing further to add.

Mr P's representative asked our service how long the National Hunter marker would be recorded for. Our Investigator explained Mr P would need to ask National Hunter directly for information about that. We haven't received a further response from Mr P or his representative despite the deadline for responses passing on 5 March 2024.

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.

As neither party have provided any further information or comments, I see no reason to depart from the findings set out in my provisional decision.

My final decision

Considering everything, for the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 9 April 2024.

Kathryn Billings
Ombudsman