

## The complaint

Miss H has complained that Indigo Michael Limited trading as SafetyNet Credit (SNC) provided a credit facility she couldn't afford to repay.

Miss H is also unhappy with the communication and information she was given by SNC during the time when it was investigating her complaint.

## What happened

Miss H was granted a credit facility from SNC in July 2018 with a credit limit of £220. SNC has told us that it didn't increase her credit limit during the time she used the facility. Miss H made a complaint to SNC in May 2021 saying that it had been irresponsible in providing her with the facility.

By 18 June 2021 Miss H hadn't heard from SNC so she sent an email chasing for a response. Later that same day SNC emailed back telling her;

*Your file has been passed to the relevant department to process the offer outlined in your final response and the monies will be in your account by close of business Friday 08/07/2021 Please be aware that if we have agreed to make any changes to your credit file, these changes may take between 6 to 8 weeks to process from the time of this email If you have any further queries...*

Miss H responded to SNC on the same day highlighting she'd not yet received the final response letter (FRL) that was referenced in SNC's email and she asked for a copy to be sent to her.

On 21 June 2021 SNC emailed Miss H confirming the following;

*We can confirm that your final response has not been sent yet, and that the message sent was done so in error.*

The email also confirmed her complaint was being investigated and under the complaint handling rules it had up to 8 weeks to issue a FRL which would be done by the deadline of 8 July 2021.

Miss H responded, and again chased SNC for an update on 4 July 2021.

SNC issued its FRL on 7 July 2021. In it, SNC accepted it was wrong to have granted the facility and upheld Miss H's complaint in full. It also made an offer to put things right for her, and I've outlined this below:

*Total amount borrowed: £465.00  
Interest added: £97.71  
Total repaid: (£272.61)  
Amount written off: £0.00  
Outstanding balance: £290.10*

*Interest (to be written off): £70.73*  
*Outstanding balance minus interest: £219.37*  
*Total amount repaid: £272.61*  
*Amount applied to funds borrowed: £245.63*  
*Interest repaid: £26.98*  
*Statutory 8% interest: £5.71*  
*HMRC 20% deduction: (£1.14)*  
*Redress due: £31.54*  
*New outstanding balance after redress applied: £187.83*  
*Amount written off from your balance: £31.54*  
*Redress to be sent to you: £0.00*

SNC also agreed to;

*All entries under [business name] will be removed from your credit file when we next report to the Credit Reference Agencies. This can take between six to eight weeks to show on your credit file.*

SNC's offer explains that as Miss H hadn't paid it enough to repay the capital she had borrowed, SNC wouldn't need to pay her any money directly but instead use the refund due (and the removal of unpaid interest) to reduce Miss H's balance from £290.10 to £187.83. Miss H didn't accept the offer in the FRL and brought her complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint and concluded SNC didn't need to do any more. She said the offer SNC had made to put things right in relation to the credit facility was fair and reasonable and in line with what the Financial Ombudsman would recommend SNC pay, had it been decided the facility shouldn't have been granted.

While an outstanding balance remained, SNC had told us that it would be willing to discuss a repayment plan with Miss H.

Our adjudicator acknowledged SNC had made an error by providing the update that it did on 18 June 2021. But she didn't think compensation needed to be paid to Miss H for this error because SNC corrected the mistake within a couple of days. The adjudicator concluded Miss H hadn't suffered any detriment.

SNC didn't respond to the adjudicator's assessment.

However, Miss H didn't agree with the adjudicator's findings. In response she made a number of points, including:

- SNC should either write off or reduce the outstanding balance by 50% because it shouldn't have granted the facility in the first place.
- SNC should also remove the facility from Miss H's credit file.
- SNC operates in a "*shoddy manner*" by sending out emails in error.

As no agreement could be reached the complaint has been passed to me for a final decision.

### **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.

I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the facility was provided.

I've split the decision into two parts, the first part deals with what happened when SNC granted the facility and the compensation it has offered to put things right for Miss H.

In the second part, I'll then look to review what happened with the email communication during the time when SNC was investigating Miss H's complaint.

### *Irresponsible lending*

In relation to the irresponsible lending part of Miss H's complaint, there is nothing further for me to say because SNC has already accepted, in the FRL, that this complaint needs to be fully upheld. SNC accepts that the facility shouldn't have been granted and so, I don't intend to make a finding on this.

However, it's clear, from her response that Miss H is unhappy with the compensation that has been offered by SNC in order to put things right. Miss H says SNC should either reduce the outstanding balance by 50% or write it off. I won't be recommending SNC does this because I don't think that would be fair or reasonable in the circumstances of the case.

Once the Financial Ombudsman Service has concluded that a business has done something wrong our starting point for any redress or compensation is that what the award should, as far as possible, put the consumer back into the position they would've been in had the error not been made. So, in this case, SNC needs to pay compensation to put Miss H back into the position she would've likely been in had it not granted the facility.

However, that isn't always possible in cases which involve irresponsible lending. This is because a consumer has been advanced money which has been spent. So, it's not possible to just unwind the loan, because Miss H would need to repay at least the amount she had borrowed.

This is why, the Financial Ombudsman takes the well-established approach to say that a lender can't benefit from lending money that was irresponsibly lent. A consumer should only have to repay the capital balance they borrowed, and anything the lender has charged above this is refunded, along with 8% simple interest per annum (minus 20% tax).

In Miss H's case SNC isn't going to be entitled to recover any balance greater than the sums it advanced, but we'd still expect the amount advanced to be repaid.

So, where there is an outstanding balance due, it's reasonable for SNC to use any refund due to offset this balance. In this case, Miss H hasn't repaid SNC enough to fully repay what she has borrowed, which is why SNC has calculated a new outstanding balance of around £187. This is the amount of capital Miss H has borrowed but hasn't yet been able to repay.

The redress that SNC has calculated, is in line with the approach the Financial Ombudsman Service would take, if we had concluded that SNC ought to not have provided Miss H with the facility.

Taking into account our approach to compensation, I've concluded SNC doesn't need to do anything further to put things right for Miss H. Nor, have I seen anything else to make me think that SNC should depart from the well-established approach to compensation, which I've outlined above. Therefore, the offer that SNC has made in the FRL, is in my view, fair and reasonable to put things right for Miss H.

### *Email communication*

Following Miss H's complaint and having not heard anything for a while she chased SNC for a response to her complaint. Following this update request, she was told the complaint was resolved following the FRL (despite Miss H not receiving one) and that payment would follow.

Miss H, understandably confused about this, responded to ask what was going on. It was then, three days later on 21 June 2021, SNC explained that its email of 18 June 2021 was sent in error.

It then provided, what I consider to be a meaningful update because it explained the rules around how long it had to investigate the complaint and it provided Miss H with the latest date she would expect to get a response to her complaint - 8 July 2021. SNC issued its FRL before this date, on 7 July 2021.

I've thought about what happened here, and it's clear that the email sent to Miss H on 18 June 2021 was incorrect and SNC accepts this. But that doesn't mean it needs to do anymore and I agree with this, much like the adjudicator for the same reasons.

I accept it would've been confusing to be told that an FRL had been issued and payment would be following. Miss H needed to go back to SNC for clarification. But SNC provided this within a few days and it explained exactly what had happened so far and what would be happening moving forward. It also quickly explained that an error had been made.

I don't think, in this case, there has been any detriment caused to Miss H and I don't think SNC needs to pay any further compensation. I say this because, SNC apologised and explained what would be happening. I think that was the correct approach, and no further award is due as I think what SNC had done is sufficient.

I appreciate Miss H may disagree with this, but I don't think I can fairly ask SNC to pay compensation when it confirmed what the error was and rectified the situation in a reasonable period of time.

### **Putting things right for Miss H**

The offer SNC has made in the final response letter is reasonable and it doesn't need to do any more than what has already been agreed.

If Miss H accepts this final decision, she is accepting the offer is fair and reasonable and SNC should then carry it out.

An outstanding balance remains due to be paid to SNC and I would remind it to treat Miss H fairly and with forbearance when discussing a way forward.

### **My final decision**

For the reasons I've explained above, the offer Indigo Michael Limited (trading as SafetyNet Credit) which is outlined in its final response letter is fair and reasonable to resolve the complaint and it doesn't need to pay Miss H any further compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 18 March 2022.

Robert Walker  
**Ombudsman**