

The complaint

Mr K complains to Link Financial Outsourcing Limited (trading as Asset Link Capital (No. 7)) that the loan he had was lent irresponsibly.

What happened

Mr K took out a loan and a credit card with NewDay. In July 2021, Asset Link Capital bought the loan account from NewDay and is now responsible for administering the loan. The complaint about the credit card is being considered separately, so this decision will focus purely on the loan.

Mr K borrowed £5,000 from NewDay on 6 March 2019 and needed to repay £120.34 per month for five years.

Mr K says that he was in a debt management plan at the time and had multiple defaults on his credit file. He says he is now in financial hardship and struggling to pay his priority bills.

Asset Link Capital says it has limited information about the checks NewDay carried out at the time but says Mr K was asked about income and expenditure and that information was obtained from credit agencies. It says that Mr K needed to have had a NewDay credit card that was up-to-date with repayments and that he met NewDay's acceptance criteria for the loan.

Our investigator did not recommend the complaint should be upheld. He said that, in the absence of detailed information from NewDay, he looked at Mr K's bank statements to see what proportionate checks were likely to have shown. He found that the loan was affordable and so he couldn't say that NewDay had acted unfairly by approving it.

Mr K's wife, Mrs K, responded on his behalf to say that the complaint about the linked credit card had been upheld and she'd like an ombudsman's review.

Provisional findings

I issued a provisional decision to Mr K and to Asset Link Capital on 9 November 2023.

I've summarised my findings below:

- I considered NewDay should have ensured it had a thorough understanding of Mr K's financial circumstances because the loan was for five years and NewDay needed to be sure the repayments were sustainable for that period. Also, the credit check was likely to have shown that Mr and Mrs K were already committed to spending about

40% of their income on credit repayments;

- As NewDay provided limited information about the checks it carried out I looked at Mr K's bank statements from the time as a reasonable proxy for what proportionate checks were likely to have shown:
 - I calculated that Mr and Mrs K were left with a small disposable income of around £280 each month after all their regular expenditure;
 - However, I didn't consider the loan was sustainably affordable for them because it was for five years, and debt repayments took up over half their combined income. They had little money for unforeseen expenses, and I found there were other signs that the lending was irresponsible:
 - Mr K was already in a debt management plan;
 - Six new loans, totalling over £10,000, were taken out in the three months prior to the NewDay loan application - this included short-term and high cost lending;
 - Although some of the money was used to repay existing debt, this still left Mr and Mrs K having to commit a significant percentage of their income to credit repayments;
 - There were small, but numerous, payments to a gambling site totalling over £150 per month leading up to the loan and this figure increased following the lending.

In summary, based on the above, I didn't find the lending decision was fair, but I haven't seen any evidence to show either NewDay, or Asset Link Capital, behaved unreasonably in any other way.

Mrs K, on behalf of Mr K, responded to say he accepted the provisional decision and had no additional information.

Asset Link Capital did not respond to the provisional 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.

As neither party provided any additional information, I see no reason to depart from the provisional decision.

My final decision

My decision is that I uphold this complaint. Link Financial Outsourcing Limited (trading as Asset Link Capital (No. 7)) should:

- Add up the total amount of money Mr K received as a result of having been given the loan. The repayments Mr K made should be deducted from this amount;
 - If this results in Mr K having paid more than he received, any overpayments should be refunded along with 8% simple interest, calculated from the date

the overpayments were made until the date of settlement*. Asset Link Capital should also remove adverse information about this loan from Mr K's credit file;

- If any capital balance remains outstanding, then Asset Link Capital should try to arrange an affordable payment plan with Mr K. Once Mr K has cleared the balance, any adverse information should be removed from his credit file.

*HM Revenue & Customs requires Asset Link Capital to deduct tax from this interest. Asset Link Capital should give Mr K a certificate showing the tax it's deducted if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 11 January 2024.

Amanda Williams
Ombudsman