

## **complaint**

Mr D complains that a link he was sent by NewDay Ltd ("NewDay") directed him to adult content rather than the password reset he had expected.

## **background**

In July 2017 Mr D tried to reset his password on his NewDay account. He couldn't access the links he was given by NewDay whilst at work in a school, as the link got blocked. But when he got home he tried again and was dismayed to find the link took him to a site containing pornography.

He complained to NewDay who accepted that the link had originated from them but disputed what Mr D had seen. They offered Mr D £200 in compensation but he wasn't satisfied. He explained that his reason for attempting to enter the site, he'd been linked to, was being questioned by his employer and he said, as one of only two males in the school, it was causing him great embarrassment.

So he referred his complaint to this service and our investigator reviewed the information provided. In tandem with our IT department he was able to replicate the link and demonstrate that it did indeed direct him to adult material. He noted that NewDay had confirmed it originated from them and he decided that as it had caused Mr D significant distress, it would be fair for NewDay to pay him some compensation. He suggested £500 was reasonable.

But NewDay thought that was too much. They explained that the case had been reviewed at the highest level in their organisation and they were content that the level of award was appropriate. They therefore asked for a final decision by an ombudsman.

## **my findings**

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

I know it will disappoint NewDay but I agree with the investigator's view. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I note that NewDay do not dispute that the link originated with them. I've reviewed the findings of our investigator and I'm satisfied that the link would have directed Mr D to pornographic content. Whilst the link appears to have explained that it was linking to adult material and have asked Mr D to confirm he was over 18 years of age, I can imagine that, as he was on the phone being directed to the link by a NewDay agent at the time, he may not have given the text much notice. I understand that he may have simply trusted their direction.

I don't think any party is disputing that this issue caused Mr D some distress but I do think that NewDay are understating that distress.

This is an issue which I'm sure has caused Mr D significant embarrassment. He's explained that the school in which he works has questioned him about why he tried to access the link. And I'm persuaded that this will have led to him worrying about how this could impact on his career and his relationship with staff. I can see that it's taken some time to get closure on the issue and that must have elevated his concerns. It's been more than a year since it happened and I see Mr D understandably views it as a process to "*clear his name*".

He's also explained that his niece was with him when he managed to access the link from home. Whilst he's not claiming she viewed the link, I can understand that he will have been worried that she may have.

So I can see that there are reasons to support the investigator's suggested redress and I think the level of that redress is appropriate in the circumstances.

### **my final decision**

For the reasons I've given above I uphold this complaint and tell NewDay Ltd to pay Mr D £500 in compensation for the distress and inconvenience he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 18 November 2018.

Phil McMahon  
**ombudsman**