

The complaint

Mr B complains that NewDay Ltd trading as Fluid was irresponsible in its lending to him. He wants all interest and charges refunded along with statutory interest.

Mr B is represented by a third party but for ease of reference I have referred to Mr B throughout this decision.

What happened

Mr B was provided with a Fluid Credit card account by NewDay in March 2021. The initial credit limit was £900. The credit limit was increased on two occasions – first to £1,500 in August 2021 and then to £2,250 in December 2021. Mr B said that before the lending was provided adequate checks weren't carried out as he wasn't asked to provide evidence of his income. He said he had only been able to make the minimum repayments on his account and his account showed signs of financial vulnerability before the credit limit increases were applied.

NewDay issued a final response to Mr B's complaint dated 18 July 2024. It said that before lending it carried out comprehensive affordability checks using data provided by the applicant, information from the credit reference agencies and details about how any other accounts held with it had been managed. It said that when Mr B applied for the Fluid account he declared an annual income of £21,600. It said its creditworthiness check showed Mr B had sufficient disposable income to afford the repayments and its checks showed he hadn't missed any repayments on other lending with it, didn't have any payday loans and there were no reportable arrangements on his other credit commitments. It said similar checks were undertaken before the credit limit increases were applied. NewDay said its checks were proportionate and that the lending was responsible and affordable.

Mr B referred his complaint to this service.

Our investigator thought that NewDay had carried out proportionate checks before providing the account. He considered the information gained through the checks and noted there was some historic adverse credit data but he didn't think this meant further checks or verification was needed. He considered the costs of the Fluid credit card with the initial credit limit and found that this appeared affordable.

Our investigator considered the credit limit increases and thought that further checks should have happened before these were applied. He considered the information contained in Mr B's bank statements to assess what further checks would likely have identified. As he didn't find these would have shown the lending to be unaffordable, he didn't uphold this complaint.

Mr B didn't accept our investigator's view. He said that he had been making repayments towards his credit card but found it almost impossible to repay the debt. He explained that he had several credit cards with high monthly repayment which caused him to experience financial difficulties which in turn affected his mental health. He said he fell into a cycle of debt and began to default on his payments. Mr B said he couldn't afford to keep making his

repayments.

As a resolution hasn't been agreed, this complaint has been passed to me, an ombudsman, to issue a 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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

This decision relates to the Fluid credit card account provided to Mr B by NewDay. The account was opened in March 2021 with an initial credit limit of £900. The credit limit was increased on two occasions – first to £1,500 in August 2021 and then to £2,250 in December 2021. I have considered each of these lending decisions.

Account opening: March 2021

Before the account was opened, NewDay gathered information about Mr B's income and carried out a credit check and affordability check. The credit check recorded that 52 months had passed since Mr B's most recent default and that his active accounts were up to date on he had no outstanding payday loans. His net monthly income was recorded as £1,394 (based on a declared annual income of £21,600), his credit commitments as £462 and an estimate used for his living costs of £425.

As Mr B's credit check didn't suggest that he was struggling financially at the time of the application and I note that he had another account with NewDay which I don't think (at this time) showed issues that meant further credit shouldn't have been provided, I find the checks carried out were proportionate. As these didn't raise concerns that a credit limit of £900 was unaffordable for Mr B, I do not find I can say that NewDay was wrong to provide Mr B with this account.

Credit limit increase to £1,500: August 2021

In the months leading up this first credit limit increase, Mr B had been managing his account well. He had taken out one cash advance, but he hadn't incurred any late or overlimit charges. He was making his monthly payments, and these were above the minimum amount required and his outstanding balance was remaining comfortably within the credit limit. Based on this I do not find that Mr B's account management raised concerns.

I have looked at the information available at the time from the credit reference agencies. This showed that Mr B did have other credit commitments at the time (including the other account with NewDay) and these totalled around £17,500. This amount had remained reasonably consistent since the account was opened and there was no adverse credit data recorded which suggests Mr B was managing his credit commitments.

While I do not think the credit information raised concerns that Mr B was struggling to

manage his commitments, given he had other outstanding debt it was important to ensure that the additional lending would be affordable for him. A new assessed income figure isn't recorded, and I think it would have been reasonable for NewDay to have confirmed Mr B's income and asked him about his expenses before providing the additional credit.

Having looked through Mr B's bank statements, these show his income varied but, in the months, leading up to August 2021 it averaged around £3,000. Mr B was paying £202 for a hire purchase agreement and having looked through the information provided, I find the amount of £532 for credit card payments included in NewDay's checks reasonable. Mr B was also paying for insurance, communications contracts and general living costs. However taking this all into account, I do not find that I have evidence to say that the increase in credit limit to £1,500 (giving payments of around £75) should have been identified as unaffordable.

Credit limit increase to £2,250: December 2021

Mr B's credit limit was increased to £2,250 in December 2021. If fully used this would require monthly repayments of around £112.50. In the months between the first and second credit limit increases, Mr B had managed his account well. There were no overlimit or late fees and he hadn't taken any cash advances. He was making monthly repayments above minimum required and his monthly outstanding balances were comfortably within his credit limit. The other credit data available didn't raise concerns. However, noting the limit increase, I think it would have been reasonable for NewDay to have confirmed Mr B's income and asked him about his expenses.

Mr B's bank statements show Mr B receiving a regular income. While this varied, noting his payments due to his creditors (a hire purchase and other credit cards) and his other committed costs such as insurance, communications contracts and general living, I do not find that I have enough evidence to say that the increase in credit limit to £2,250 should have been identified as unaffordable.

For the reasons set out above, I do not uphold this complaint.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Mr B has complained about, including whether its relationship with him might've been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think NewDay lent irresponsibly to Mr B or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 March 2025.

Jane Archer
Ombudsman