

## **The complaint**

Mr M complains that NewDay Ltd trading as Fluid have irresponsibly lent to him.

## **What happened**

Mr M was approved for a Fluid credit card, in May 2021 with a £1,500 credit limit. The credit limit was increased to £2,850 in February 2023. Mr M says that Fluid irresponsibly lent to him. Mr M made a complaint to Fluid, who did not uphold his complaint. Mr M brought his complaint to our service.

Our investigator did not uphold Mr M's complaint. She said that Fluid made a fair lending decision to approve the account, but they should have made further checks at the next lending decision. She said further checks would have shown the lending would have been affordable for Mr M.

Mr M asked for an ombudsman to review his complaint. He made a number of points. In summary, he said that credit was being used to repay credit as he had taken a loan with a third party lender to make a large repayment (£1,000) to the Fluid account, then re-used his credit on the account. He says the evidence shows he took out two separate lines of credit in the three months preceding the credit limit increase, and he had taken out a £12,000 loan with a third party lender five months prior to the credit limit increase, which should have been obvious to Fluid that there was a cycle of credit dependency.

## **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.

Firstly, I'm aware that I've only summarised Mr M's complaint points. And I'm not going to respond to every single point made by him. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

Before agreeing to approve or increase the credit available to Mr M, Fluid needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Fluid have done and whether I'm persuaded these checks were proportionate.

### *Acceptance for the Fluid card - initial credit limit (£1,500)*

I've looked at what checks Fluid said they did when initially approving Mr M's application. I'll address the credit limit increase later on. Fluid said they looked at information provided by

Credit Reference Agencies (CRA's) and information that Mr M had provided before approving his application.

The information shows that Mr M had declared a gross annual income of £54,000. The data from a CRA showed Mr M was not currently in arrears on any accounts, and he hadn't been in the previous six months. His debt to annual income ratio was showing as 21.11%, which would have meant he had unsecured debt of around £11,400.

The CRA did not report any defaults on Mr M's credit file, and there were no County Court Judgements (CCJ's). Fluid used a mixture of information from the CRA and modelling to estimate Mr M's outgoings, and they calculated that Mr M had approximately £1,260 a month disposable income. So it appeared that Mr M would be able to sustainably afford repayments for a £1,500 credit limit.

So I'm satisfied that the checks Fluid carried out here, prior to approving the initial £1,500 credit limit were proportionate and that Fluid made a fair lending decision to approve Mr M's application for the Fluid account.

#### *February 2023 credit limit increase - £1,500 to £2,850*

I've looked at the information available to Fluid when they increased Mr M's credit limit to £2,850. They had used Current Account Turnover (CATO) data to assess Mr M's income, and this was showing as being £4,575 a month. Again, they used a mixture of modelling and information from the CRA's to estimate Mr M's outgoings. So they should have been able to include the loan repayments for Mr M's £12,000 loan in the outgoings. There was no adverse information on Mr M's credit file being reported by the CRA's.

Fluid would also be able to see how Mr M managed his account prior to the credit limit increase. Mr M incurred no late, overlimit, or cash advance fees prior to the credit limit increase, and he sometimes made repayments which were in excess of his minimum repayment. He had also made multiple balance transfers which may have enabled him to reduce the amount of interest he paid on his debt.

But the checks showed that Mr M's unsecured debt had increased to £27,141. This was a lot higher than the opening checks showed his unsecured debt was for. So although Fluid estimated that Mr M had a disposable income of £2,472 a month, I'm persuaded that it would have been proportionate to complete further checks here to ensure the credit limit increase would be affordable and sustainable for him.

There's no set way of how Fluid should have made further proportionate checks. One of the things they could have done was to contact Mr M to get an understanding of why his unsecured debt had increased since the account had been opened. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

Mr M has provided his bank statements leading up to this lending decision. As the data shows the credit limit increase was offered to him on 15 February 2023, his statement dated 17 February 2023 would not have been produced at the point the increase was offered, therefore I have not considered the information on this statement.

I've considered the information on Mr M's statements from 20 October 2022-19 January 2023. Mr M's statements do show that he has an arranged overdraft, and he is often using some of his overdraft, however, he never exceeded his overdraft during this timeframe. There were also no direct debits returned unpaid.

Mr M's statements during this timeframe show one credit to his account from a third party lender, and not two credits as Mr M has said. If the other unsecured debt credited his account after 19 January 2023, then I wouldn't expect Fluid ought to have been aware of this, as it wouldn't have been showing on the bank statements during the period they would check. And it would typically take 4-6 weeks for a credit file to update, so I wouldn't expect to see this on the external lending checks they completed in February 2023.

The loan which was showing on Mr M's bank statements was for £1,000. As this credited his account on 30 December 2022, it's unlikely the monthly credit commitment was showing in Fluid's information from the CRA about his monthly credit commitments.

But if Fluid would have requested Mr M's bank statements as part of a proportionate check, it would appear he had enough disposable income to meet the repayments of his new loan (even if this was as short as a 12 month loan repayment period), and to affordably sustain repayments to an increased Fluid credit limit.

I say this because Mr M's bank accounts do show he has enough disposable income to be able to afford the credit limit increase after deducting his essential/priority outgoings. Mr M has enough disposable income to spend on non-essential items, and it also appears that he has enough disposable income in order to regularly invest in a third party trading platform.

Mr M's bank statements show that in the aforementioned period, he appears to invest a total of £660, which averages at £220 a month. So although his debt had increased, the bank statements did not show a cycle of dependency on credit due to the disposable income and the fact that Mr M was able to regularly invest. So if Fluid would have requested Mr M's bank statements as part of a proportionate check, I'm persuaded that they still would have increased his credit limit, and I'm persuaded they made a fair lending decision here.

I've considered what Mr M has said about using debt to pay debt. But while he's told our service he used a loan to repay £1,000 of his Fluid credit card outstanding balance, Fluid would not be aware of this. I say this as the payment appears to come from Mr M's bank account directly, and not made by the lender directly to Fluid. So based on the estimated income Fluid calculated for Mr M at both the account opening stage and at the credit limit increase, it would appear that he could meet this repayment from his estimated disposable income.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Fluid lent irresponsibly to Mr M 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. So it follows I don't require Fluid to do anything further.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 March 2025.

Gregory Sloanes  
**Ombudsman**