

The complaint

Mrs P complains that NewDay Ltd trading as Fluid irresponsibly lent to her.

What happened

Mrs P was approved for a Fluid credit card in August 2021 with a credit limit of £1,500. The credit limit was increased to £2,750 in December 2021. The credit limit was increased for the last time in April 2022 to £4,000. Mrs P says that Fluid irresponsibly lent to her. Mrs P made a complaint to Fluid.

Fluid did not uphold Mrs P's complaint. They said that the affordability assessments showed the lending was appropriate and proportionate. Mrs P brought her complaint to our service. Our investigator did not uphold Mrs P's complaint. He said Fluid made fair lending decisions. Mrs P asked for an ombudsman to review her complaint.

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.

Before agreeing to approve or increase the credit available to Mrs P, Fluid needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. 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

I've looked at what checks Fluid said they did when initially approving Mrs P'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 Mrs P had provided them before approving her application.

The information shows that Mrs P had declared a gross annual income of £21,500. The CRA did not report any County Court Judgements (CCJ's) on Mrs P's credit file, but they did report to Fluid that she defaulted on at least one account 19 months prior to the application.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – it doesn't automatically mean that a lender won't offer borrowing. So I've looked at what else Fluid's information showed them, to see if they made a fair lending decision to accept Mrs P's application.

The data from a CRA showed Mrs P was not currently in arrears on any accounts, and she hadn't been in arrears on any accounts in the previous six months. Her debt to annual income ratio was showing as 34.06%, which would have meant she had unsecured debt of

around £7,323.

Fluid completed an affordability assessment which incorporated Mrs P's net income, information from a CRA about how much Mrs P's credit commitments were each month, and modelling to estimate Mrs P's other outgoings, and the affordability assessment showed that Mrs P should be able to sustainably afford repayments for a £1,500 credit limit. So I'm persuaded that Fluid's checks were proportionate, and that they made a fair lending decision here.

December 2021 credit limit increase - £1,500 to £2,750

I've looked at the information available to Fluid when they increased Mrs P's credit limit as part of this lending decision. The checks showed that Mrs P's unsecured debt had almost doubled to £14,307. She had no accounts in arrears since the last lending decision.

Fluid would also be able to see how Mrs P managed her account prior to the credit limit increase. Mrs P incurred no late or overlimit fees. She often paid more than the minimum repayment, but I note she often re-used the credit she had repaid in a short period of time.

Although Fluid completed an affordability assessment for Mrs P, they assessed her income to be £5,581 a month. While Fluid used Current Account Turnover (CATO) information from a CRA to assess this, which is an industry standard way of assessing income, Fluid used a net monthly income of £1,583.30 only four months earlier.

While I can't rule out a pay rise/promotion/new job etc for Mrs P within the four months that had passed since the application for the account, I'm persuaded that Fluid should have completed further checks to check the accuracy of Mrs P's income since it appeared it had more than trebled in four months.

So based on the high amount of unsecured debt that Mrs P had since the last lending decision, and the assessed income seeming to be inconsistent with what Fluid used only four months earlier, I'm persuaded that Fluid should have completed further checks to ensure Mrs P could sustainably afford repayments for a credit limit which was almost doubling.

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 Mrs P to find out what her net monthly income was and to find out why her debt had almost doubled in a short period of time. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Mrs P has provided some of her bank statements leading up to this lending decision. The statements show Mrs P requested the statements, but they don't show the account holders names on the statement. On the balance of probabilities, I believe the account is a joint account as there appears to be two salary credits crediting the account. As Mrs P told Fluid only four months earlier that her gross annual income was £21,500, I suspect that the other joint account holder has the higher salary credit.

I can also see funds being transferred to and from other accounts, not only to a joint account, but it appears Mrs P may have had a sole account also. The statements also show money being transferred to a savings/investment provider.

So to get a clearer picture of Mrs P's financial situation at the time she was offered the credit limit increase, I asked Mrs P to provide any other bank/savings/investment statements for the three months leading up to the credit limit increase. I also asked her to confirm if the

statements she had previously sent us were for a joint account, and if so, who was the different income paid to. I also asked about the split of the bills. But Mrs P didn't respond to my requests by the deadline set, even though I extended the deadline for her.

So on the face of it, it does look like Fluid should've looked more closely into this. But as my role is impartial, that means I have to be fair to both sides and although I'm satisfied that Fluid should've done more checks here – I can't say whether further checks would've revealed further information which means they wouldn't have lent. So as Mrs P hasn't provided me with all of the information I asked her for, that means that it wouldn't be fair for me to say that Fluid shouldn't have lent here, because I don't know what further checks would reveal.

April 2022 credit limit increase - £2,750 to £4,000

I've looked at the information available to Fluid when they increased Mrs P's credit limit as part of this lending decision. The checks showed that Mrs P's unsecured debt had fallen to £8,071. She was not in arrears on any active external accounts at the time of the checks, and she hadn't been in arrears on them since the last lending decision.

Although Mrs P did not incur any late fees since the last credit limit increase, she did incur an overlimit fee in the month that Fluid conducted the checks for this lending decision, which could have been a sign of financial difficulty.

Fluid again completed an affordability assessment, and they assessed Mrs P's income as being £5,398. But as I mentioned in the previous section, this would not be consistent with what Mrs P originally declared as her income by some margin.

So based on the overlimit fee being incurred in the month Fluid were completing their checks for this lending decision, and the inconsistency in the assessed income to what Mrs P originally declared to Fluid, I'm persuaded that Fluid should have completed further checks to ensure the lending would be affordable and sustainable for her.

Again Mrs P has provided some of her bank statements leading up to this lending decision. The statements show Mrs P requested the statements, but they don't show the account holders.

So to get a clearer picture of Mrs P's financial situation at the time she was offered the credit limit increase, I asked Mrs P to provide any other bank/savings/investment statements for the three months leading up to this credit limit increase. I also asked her to confirm if the statements she had previously sent us were for a joint account, and if so, who was the different income paid to. I also asked about the split of the bills. But Mrs P didn't respond to my requests by the deadline set, even though I extended the deadline for her.

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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 Mrs P or otherwise treated her 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

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 27 August 2025.

Gregory Sloanes
Ombudsman