

## **The complaint**

Miss S complains that NewDay Ltd trading as Fluid irresponsibly lent to her.

Miss S is represented by a Claims Management Company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Miss S herself.

## **What happened**

Miss S was approved for a Fluid credit card in April 2022 with a credit limit of £900. Miss S says that Fluid irresponsibly lent to her. Miss S made a complaint to Fluid, who did not uphold Miss S' complaint. They said that the affordability assessment showed the lending was appropriate and proportionate. Miss S brought her complaint to our service.

Our investigator did not uphold Miss S' complaint. He said Fluid made a fair lending decision. Miss S asked for an ombudsman to review her complaint. She said her credit file showed that if she made sustainable repayments to her existing debt, then she would have a negative disposable income.

## **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 the credit available to Miss S, 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.

I've looked at what checks Fluid said they did when initially approving Miss S' application. Fluid said they looked at information provided by Credit Reference Agencies (CRA's) and information that Miss S had provided them before approving her application.

The information shows that Miss S had declared a gross annual income of £20,000. The CRA did not report any County Court Judgements (CCJ's) or defaulted accounts on Miss S' credit file. The data from a CRA showed Miss S 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 37.66%, which would have meant she had unsecured debt of around £7,532.

Fluid completed an affordability assessment which incorporated Miss S' net income, information from a CRA about how much Miss S' credit commitments were each month, and modelling to estimate Miss S' other outgoings, and the affordability assessment showed that Miss S should be able to sustainably afford repayments for a £900 credit limit.

I've considered what Miss S has said about what her credit file shows, and that her credit commitments would be higher than what Fluid said they were. But Fluid do not request her full credit file from the CRA they use. The CRA told Fluid how much Miss S was paying for her monthly credit commitments, and it would not be proportionate for Fluid to complete any further checks on what the CRA told them, especially as there was no adverse information showing on the checks.

So I'm persuaded that Fluid's checks were proportionate, and that they made a fair lending decision here.

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 Miss S 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 Miss S to accept or reject my decision before 10 September 2025.

Gregory Sloanes  
**Ombudsman**