

The complaint

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

Mr M 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 Mr M himself.

What happened

Mr M was approved for a Fluid credit card, in May 2022 with a £1,500 credit limit. I have detailed the credit limit changes below:

January 2023	£1,500 to £2,850
May 2023	£2,850 to £3,850
October 2024	£3,850 to £4,850

Mr M says that Fluid irresponsibly lent to him. Mr M made a complaint to Fluid, who did not uphold his complaint. They said their affordability assessments were proportionate and affordable. Mr M brought his complaint to our service. Our investigator did not uphold Mr M's complaint. He said that Fluid made fair lending decisions.

Mr M asked for an ombudsman to review his complaint. He made a number of points. In summary, he said he defaulted on an account only seven months prior to being approved for the account, which Fluid should have been able to see, and he had significant hire purchase obligations. Mr M said Fluid should be held responsible for failing to perform their duties when assessing his affordability.

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

I've looked at what checks Fluid said they did when initially approving Mr M's application. I'll address the credit limit increases 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 £60,000. I've considered what Mr M has said about Fluid knowing he had recently defaulted on an account. But the CRA Fluid used reported Mr M had not defaulted on any credit agreements or had any County Court Judgements (CCJ's). So I can't hold Fluid responsible for the information a CRA told them. It could be that the lender Mr M defaulted with did not report the default to all of the CRA's.

Mr M was also showing as having a debt to income ratio of 0%, and no monthly credit commitments were being reported by the CRA that Fluid used. So there was no indication of any hire purchase agreements based on what the CRA told Fluid. The data from a CRA showed Mr M was not currently in arrears on any active accounts, and he hadn't been in arrears on any active accounts in the previous six months. The £1,500 credit limit would have equated to 2.5% of Mr M's declared gross annual income.

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.

January 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 as part of this lending decision. For this lending decision, Fluid had information from two CRA's. One of the CRA's did report that Mr M defaulted on an account 15 months prior to these lending checks (while the other CRA reported there were no defaulted accounts still).

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 – they don't automatically mean that a lender won't offer borrowing. So I've looked at what other checks Fluid made to see if they made a fair lending decision.

A CRA reported that Mr M had active unsecured debt totalling £136,040, which would have been more than double his originally declared gross annual income. The CRA's reported that Mr M was not in arrears on any of his active external accounts, and he hadn't been since his Fluid account had been opened. Fluid would also be able to see how Mr M managed his account since it had been opened.

Mr M incurred no overlimit, late, or cash advance fees prior to the credit limit increase. But Mr M either made only his minimum repayment to the account, or slightly higher than his minimum repayment.

So based on the outstanding active debt Mr M had, which was more than double his originally declared gross annual income, I'm persuaded that Fluid should have completed further checks to ensure the £2,850 credit limit 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 enquire why he had so much unsecured debt, and to check that he could afford the repayments on his Fluid account for an increased credit limit. 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 forwarded two bank account statements from different providers that he was a named account holder on the account for the three months leading up to this lending decision. Mr M has a £200 arranged overdraft on one of the accounts. While Mr M sometimes enters his arranged overdraft, he doesn't utilise the majority of his overdraft for any substantial period of time. And he didn't exceed his arranged overdraft limit during the three month period I looked at.

On another account Mr M did have one returned direct debit, but it appears to be an oversight from Mr M as he transfers money the following day (and he would have access to the funds in his other account to transfer them prior to the direct debit debiting his account).

Mr M's accounts were generally well run leading up to this credit limit increase, and if Fluid would have requested Mr M's bank statements for the reasons I've given, then it would appear that Mr M could afford sustainable repayments for a credit limit increase to £2,850. So I'm persuaded that Fluid made a fair lending decision here.

May 2023 credit limit increase - £2,850 to £3,850

Both CRA's that Fluid used reported that Mr M had active unsecured debt totalling £131,265. So Mr M had been able to reduce his overall active debt by nearly £5,000 since the last lending decision. The CRA's reported that Mr M was not in arrears on any of his active external accounts, and he hadn't been in arrears on his active accounts since the last lending decision checks.

Fluid would also be able to see how Mr M managed his account since the last lending decision checks. Mr M again incurred no overlimit, or late fees, or cash advance fees prior to the credit limit increase.

Mr M paid more than the minimum repayment in each month since the last credit limit increase, sometimes repaying around double the required minimum repayment, which I wouldn't expect him to be able to make if he had financial difficulty prior to this credit limit increase.

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

October 2024 credit limit increase - £3,850 to £4,850

A CRA reported that Mr M had active unsecured debt totalling £136,683, which was higher than at the last lending decision, but a similar amount to Fluid's checks when they increased the credit limit to £2,850, where Mr M's bank statements show the lending was affordable and sustainable for him. But the CRA also told Fluid how much Mr M was also paying for his monthly credit commitments, so Fluid would have been aware of this.

The CRA's again reported that Mr M was not in arrears on any of his active external accounts, and he hadn't been in arrears on his active accounts since the last lending decision checks.

Fluid would also be able to see how Mr M managed his account since the last lending decision checks. Mr M incurred no overlimit or late fees since the last credit limit increase.

There were a number of occasions where Mr M had made four figure repayments to his Fluid account, so it could appear that Mr M had enough disposable income to make larger repayments as this wasn't a one off occasion. In the month where Fluid completed the checks for this lending decision, his last statement balance was showing as being £214.13

outstanding. So Mr M had repaid a lot of his Fluid balance off, and he was using just over 5.5% of his Fluid credit limit prior to this increase.

So I'm persuaded that Fluid's checks were proportionate, and 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 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.

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 4 September 2025.

Gregory Sloanes
Ombudsman