

The complaint

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

What happened

Mr A was approved for a Fluid credit card, in January 2020 with a £450 credit limit. I have detailed the credit limit changes below:

August 2020	£450 to £1,200
February 2021	£1,200 to £2,450
June 2021	£2,450 to £3,700

Mr A says that Fluid irresponsibly lent to him. Mr A made a complaint to Fluid, who did not uphold his complaint. Mr A brought his complaint to our service. Our investigator did not uphold Mr A's complaint. He said that Fluid made fair lending decisions to approve each lending decision.

Mr A asked for an ombudsman to review his complaint. He made a number of points. In summary, he said his bank statements showed his constant use of his overdraft and his repeated credit repayments. He said he had two dependents, which had a significant impact on his disposable income. Mr A questioned the accuracy and validity of Fluid's checks.

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 A'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 A, 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 A'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 A had provided before approving his application.

The information shows that Mr A had declared a gross annual income of £45,000. But the data showed that Mr A had defaulted on at least one credit agreement, with the last default showing as being registered 59 months prior to the account opening checks.

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.

The data from a CRA showed Mr A 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 CRA did not report any County Court Judgements (CCJ's). Fluid used a mixture of information from the CRA and modelling to estimate Mr A's outgoings, and they calculated that Mr A had approximately £1,455 a month disposable income. So it appeared that Mr A would be able to sustainably afford repayments for a £450 credit limit.

I've considered what Mr A has said regarding him having two dependents. There were no outgoings recorded in the affordability assessment for Mr A that Fluid carried out for dependent costs. I asked Fluid about this. Fluid told me that as there were no dependent costs in the affordability assessment, they could only assume that Mr A forgot or omitted to provide them with the number of dependents he had.

So I can't fairly hold Fluid responsible if Mr A did not tell Fluid he had dependents. The £450 credit limit would have equated to 1% of Mr A's declared gross annual income.

I've considered what Mr A has said about his bank statements, his overdraft and his credit repayments. But it would not have been proportionate for Fluid to request his bank statements based on what the checks showed. Fluid did get information from the CRA as to how much Mr A was repaying towards his credit commitments each month and they factored this into the affordability assessment they completed.

So I'm satisfied that the checks Fluid carried out here, prior to approving the initial £450 credit limit were proportionate and that Fluid made a fair lending decision to approve Mr A's application for the Fluid account.

August 2020 credit limit increase - £450 to £1,200

I've looked at the information available to Fluid when they increased Mr A's credit limit as part of this lending decision. A CRA reported that Mr A had active unsecured debt totalling £3,161, which would have been around 7% of his originally declared gross annual income.

The CRA's reported that Mr A 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 A managed his account since it had been opened.

Mr A incurred no overlimit, or cash advance fees prior to the credit limit increase. But he did incur two late fees, which could be signs of financial difficulty. Here, they appear to be oversights. I say this as Mr A had made repayments in each month he was required to make a repayment, so it appears that these were oversights.

The new credit limit would have equated to around 2.7% of Mr A's originally declared income. If Mr A used the full amount of his credit limit and this was added to his existing active unsecured debt, then Mr A would have a debt to declared annual gross income of around 9.7%.

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

February 2021 credit limit increase - £1,200 to £2,450

A CRA reported that Mr A had active unsecured debt totalling £3,503, which was not too dissimilar from the last lending checks. The CRA's reported that Mr A 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 A managed his account since the last lending decision checks. Mr A again incurred no overlimit, or cash advance fees prior to the credit limit increase. But he did incur one late fee, which could be a sign of financial difficulty. But this does seem to be an oversight. I say this as Mr A had again made repayments in each month he was required to make a repayment, so it appears that the late payment was an oversight.

In addition to this, Mr A had repaid his full statement balance shortly after the previous credit limit increase, and his account was slightly in credit for a number of months before he started re-using some of the credit. In the two months after the last credit limit increase, Mr A made total monthly repayments of £426.11 in one month followed by £1,167.19 in the following month, bringing his account into credit. So it may appear that Mr A had the affordability to afford repayments for a higher credit limit.

The new credit limit would have equated to around 5.4% of Mr A's originally declared income. If Mr A used the full amount of his credit limit and this was added to his existing active unsecured debt, then Mr A would have a debt to declared annual gross income of around 13.2%.

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

June 2021 credit limit increase - £2,450 to £3,700

A CRA reported that Mr A had active unsecured debt totalling £5,198, which was not substantially higher than at the last lending decision. But the CRA also told Fluid how much Mr A was also paying for his monthly credit commitments, so Fluid would have been aware of this.

The CRA's again reported that Mr A 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 A managed his account since the last lending decision checks. Mr A incurred no overlimit or late fees since the last credit limit increase.

At the time of the checks, a CRA was reporting that Mr A was utilising 24% of his active revolving debt (which would include things like his credit cards/any store cards/his overdraft usage). So it wouldn't appear to Fluid that Mr A was reliant on his overdraft or available credit.

The new credit limit would have equated to around 8.2% of Mr A's originally declared income. If Mr A used the full amount of his credit limit and this was added to his existing active unsecured debt, then Mr A would have a debt to declared annual gross income of around 19.8%.

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

I've considered what Mr A has said about the accuracy and validity of Fluid's checks. But it is proportionate for Fluid to rely on the information that Mr A and CRA's gave them in the absence of any conflicting information showing on their checks.

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 A 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 A to accept or reject my decision before 11 July 2025.

Gregory Sloanes
Ombudsman