

The complaint

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

Mrs 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 Mrs M herself.

What happened

Mrs M was approved for a Fluid credit card in January 2020 with a credit limit of £2,000. I have detailed the credit limit changes below:

September 2020	£2,000 to £3,500
January 2021	£3,500 to £4,750
July 2021	£4,750 to £6,250
November 2021	£6,250 to £7,750

Mrs M says that Fluid irresponsibly lent to her. Mrs M made a complaint to Fluid, who did not uphold her complaint. They said the affordability assessment was affordable and proportionate. Mrs M brought her complaint to our service.

Our investigator upheld Mrs M's complaint. He said Fluid shouldn't have approved the £2,000 credit limit, as Fluid's affordability assessment showed Mrs M wouldn't have enough disposable income to sustainably afford repayments on the account.

Fluid asked for an ombudsman to review the complaint. They said their affordability assessments seek to ensure that a customer can afford 2.5 times the monthly interest due on the full credit limit offered, so not only would they be able to meet their contractual minimum repayment, but to also avoid falling into persistent debt. Fluid said Mrs M managed her account well and there were no concerns of irresponsible lending.

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 M, 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.

Application for the Fluid credit card

I've looked at what checks Fluid said they did when initially approving Mrs M's application. I'll

address the subsequent lending decisions later on. Mrs M declared a gross annual income of £32,000.

The data also showed that Mrs M had no County Court Judgements (CCJ's) or defaults. The checks showed that Mrs M was not in arrears on any of her accounts at the time of the checks, or the six months prior to the checks.

The checks showed Mrs M currently had around a 71.53% debt to gross annual income ratio. So this would have equated to around £22,889.60 of unsecured debt.

Fluid completed an affordability assessment, using information from a Credit Reference Agency (CRA) regarding Mrs M's monthly credit commitments. They also used modelling to estimate Mrs M's other outgoings. The affordability assessment showed that Mrs M would have £49.77 of estimated disposable income.

But I'm not persuaded that £49.77 a month disposable income would be sufficient for Fluid to make a fair lending decision here. I say this because even a slight rise in Mrs M's outgoings could result in her having a negative disposable income, not to mention her having no disposable income for emergencies. So I'm not persuaded that Fluid made a fair lending decision here.

Although I've considered what Fluid have said about how Mrs M managed her account since it has been opened, they wouldn't of known how Mrs M would manage her account prior to it being opened. So I can't fairly say they made a fair lending decision based on the affordability assessment results.

Future credit limit increases

If Mrs M's credit limit was not approved for £2,000, then it's probable that the further lending decisions wouldn't have happened after this either. So I think there is an argument for saying that Mrs M's complaint about the subsequent lending decision should be upheld without making a finding on reasonable and proportionate checks. After all, if matters had played out as the evidence suggests they should have done in January 2020, then I'm not persuaded that Fluid would've added to the credit.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed at the end of this decision results in fair compensation for Mrs M in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

Our investigator has suggested that Fluid takes the actions detailed below, which I think is reasonable in the circumstances. In addition to this, if Fluid do not own the debt anymore for the account, then they should also transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out promptly.

My final decision

I uphold this complaint. NewDay Ltd trading as Fluid should take the following actions:

Fluid should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out

promptly;

Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied;

If the rework results in a credit balance, this should be refunded to Mrs M along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Fluid should also remove all adverse information regarding this account from Mrs M's credit file;

Or, if after the rework there is still an outstanding balance, Fluid should arrange an affordable repayment plan with Mrs M for the remaining amount. Once Mrs M has cleared the balance, any adverse information in relation to the account should be removed from Mrs M's credit file.

**If Fluid considers that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mrs M how much they've taken off. They should also give Mrs M a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 31 October 2025.

Gregory Sloanes
Ombudsman