

The complaint

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

Mr R 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 R himself.

What happened

Mr R was approved for a Fluid credit card in December 2018 with a credit limit of £900. The credit limit was increased to £2,150 in July 2019. The credit limit was increased for the last time in January 2020 to £3,900. Mr R says that Fluid irresponsibly lent to him. Mr R made a complaint to Fluid.

Fluid did not uphold Mr R's complaint. They said that the affordability assessments showed the lending was appropriate and proportionate. Mr R brought his complaint to our service. Our investigator did not uphold Mr R's complaint. She said Fluid's checks were proportionate, and they made fair lending decisions.

Mr R asked for an ombudsman to review his complaint. He said that he exceeded his credit limit prior to the first credit limit increase multiple times, and he made late repayments, and it was only when he received an inheritance payment that he could clear the balance on the Fluid account, but this wouldn't be sustainable moving forward.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"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 Mr R, 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 R'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 R had provided them before approving his application.

The information shows that Mr R had declared a gross annual income of £25,000. The CRA reported that Mr R had defaulted on at least one account previously, with the last default

being registered 31 months prior to the 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 CRA did not report any County Court Judgements (CCJ's) on Mr R's credit file. And none of his active accounts were in arrears at the time of the checks (or for the six months prior to the checks).

Mr R was showing as having a debt to annual income ratio of 7.76%, which would have meant he had unsecured debt of around £1,940.

Fluid completed an affordability assessment which incorporated Mr R's net income, information from a CRA about how much Mr R's credit commitments were each month, and modelling to estimate Mr R's other outgoings. The affordability assessment showed that Mr R should be able to sustainably afford repayments for a £900 credit limit. So I'm persuaded that Fluid's checks were proportionate, and that they made a fair lending decision here.

July 2019 credit limit increase - £900 to £2,150

I've looked at the information available to Fluid when they increased Mr R's credit limit as part of this lending decision. The checks showed that Mr R's active unsecured debt had significantly increased to £19,074. Mr R had at least one occasion when he was in arrears on an external account for consecutive months.

Fluid would also be able to see how Mr R managed his account prior to the credit limit increase. Mr R incurred four overlimit fees, and three late payment fees. So based on the significant increase to the active unsecured debt, the arrears on at least one external account, and the late/overlimit fees incurred, I'm persuaded that Fluid should have completed further checks to ensure Mr R could afford repayments for an increased credit limit which was more than double the credit limit he currently had.

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 R to find out why he was in arrears for consecutive months, and why his debt had significantly increased since the account had been opened. 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 R has provided his bank statements leading up to Fluid offering him the credit limit increase. Mr R's statements show he is often overdrawn, and his income received is significantly less than his turnover of his account.

I do note that a large payment of £75,975.96 credited Mr R's account on 24 May 2019, and with the transaction reference this aligns to what Mr R has told us that this was an inheritance payment. But while Mr R cleared his Fluid balance with some of this money, he is overdrawn on his bank account less than three weeks after the large credit.

So as the inheritance payment would be a one off payment, I'm not persuaded that this would be reflective that Mr R could afford repayments for a higher credit limit. After all, prior to this payment Mr R had exceeded his Fluid credit limit and been late with payments several times, in addition to being in arrears on external accounts and increasing his debt since the Fluid account had been opened. So I'm not persuaded that Mr R could make sustainable and affordable repayments for a higher credit limit. So I'm not persuaded that

Fluid made a fair lending decision here.

January 2020 credit limit increase - £2,150 to £3,900

If Mr R's credit limit was not increased to £2,150, then it's probable that the further lending decision wouldn't have happened after this either. So I think there is an argument for saying that Mr R'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 July 2019, 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 Mr R in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case."

I invited both parties to let me have any further submissions before I reached a final decision. Mr R accepted the provisional decision. Fluid did not respond to the provisional decision.

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.

As neither party have provided me with any further information to consider, then my decision and reasoning remains the same as in my provisional decision.

Putting things right

In the provisional decision I said I intend to uphold this complaint in part. I said I intend to ask NewDay Ltd trading as Fluid to 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 to balances above £900 after 26 July 2019;

If the rework results in a credit balance, this should be refunded to Mr R 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 Mr R's credit file recorded after 26 July 2019;

Or, if after the rework the outstanding balance still exceeds £900, Fluid should arrange an affordable repayment plan with Mr R for the remaining amount. Once Mr R has cleared the balance, any adverse information recorded after 26 July 2019 in relation to the account should be removed from Mr R's credit file.

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

My final decision

I uphold this complaint in part. NewDay Ltd trading as Fluid should settle the complaint in line with the instructions in the *“Putting things right”* section above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr R to accept or reject my decision before 19 November 2025.

Gregory Sloanes
Ombudsman