

The complaint

Miss M complains that NewDay Ltd trading as Fluid lent irresponsibly when it approved her credit card application.

What happened

The background to this complaint and my initial conclusions were set out in a provisional decision. I said:

In Miss M's application she said she was employed with an annual income of £33,000 which Fluid calculated left her with around £1,886 a month net. Fluid carried out a credit search and found Miss M had existing debts totalling around £1,638 with monthly repayments of around £77 a month. No defaults, CCJ's, payment arrangements or other adverse credit was noted on Miss M's credit file although two missed payments within the previous six months were found. Estimates for Miss M's rent of £291 and general living expenses of £503 a month were used by Fluid when completing an affordability assessment. Fluid says that after deducting Miss M's rent, living expenses and existing outgoings she had a disposable income of around £996 a month. Fluid approved Miss M's application and issued a credit card with a limit of £900.

More recently, Miss M complained that Fluid lent irresponsibly and it issued a final response. Fluid said it had carried out the relevant lending checks before approving Mr N's application and didn't agree it lent irresponsibly.

An investigator at this service looked at Miss M's complaint. They weren't persuaded Fluid completed proportionate checks before agreeing to lend and asked Miss M to provide bank statements for the three months before her June 2022 application was made. Miss M explained she no longer had access to the bank account required so wasn't able to provide bank statements. The investigator said that in the absence of bank statements to verify Miss M's circumstances they were unable to conclude Fluid lent irresponsibly.

Miss M asked to appeal and pointed to her existing Debenhams account (also with NewDay). Miss M explained that the Debenhams credit card had been subject to numerous over limit and late payment fees in the months before her application for a Fluid credit card. Miss M said her Debenhams account should've shown Fluid she wasn't able to sustainably afford her existing credit card and certainly not a new one. As Miss M asked to appeal, her complaint has been passed to me to make a decision.

What I've provisionally 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 lend, the rules say Fluid had to complete reasonable and proportionate checks to ensure Miss M could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I've set out the information Fluid used when considering Miss M's application above so won't repeat it here. Fluid says Miss M's credit file was reasonably well maintained and that the new credit card with a limit was affordable on the basis she had a disposable income of over £900 a month. But I think Miss M makes a reasonable point when she says her Debenhams credit card, which was also provided by NewDay, wasn't well maintained and had been subject to various fees and charges in the year before her Fluid application was made.

I can see our investigator felt there were grounds for a more detailed set of lending checks by Fluid before approving the new credit card and asked Miss M for her bank statements. Miss M's explained the relevant account is closed so she no longer has access to the bank statements required. So that evidence isn't available to review. With that said, I'm satisfied we already hold sufficient evidence on file to reach a fair decision about Miss M's complaint.

I've looked at the Debenhams account going back to January 2021. I found 10 instances of Miss M's Debenhams account balance exceeding the agreed credit limit of £450. In the 12 months before Miss M's application was made, Miss M's Debenhams account balance was over the limit on six occasions. Miss M's Debenhams account incurred fees in September 2021, December 2021, January 2022, April 2022 and June 2022. Given the high level of fees incurred and instances of Miss M's Debenhams balance exceeding the lower limit of £450 in the previous 12 months, I think it should've been clear to Fluid Miss M was already struggling to maintain her existing commitments. I think it ought to have been clear to Fluid Miss M was unlikely to be able to sustainably afford a new credit card with a higher limit of £900.

I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Miss 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.

Based on the information I've seen, my view is that Fluid lent irresponsibly when it approved Miss M's application and issued a credit card with a £900 limit. As a result, I intend to uphold Miss M's complaint and direct Fluid to refund all interest, fees and charges applied.

I invited both parties to respond with any additional comments or information they wanted me to consider before I made my final decision. Miss M responded to confirm she wanted to accept. We didn't hear back from Fluid.

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 no new information has been provided and Miss M has confirmed she accepts the provisional decision I see no reason to change the conclusions I reached. I still think Miss M's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Miss M's complaint and direct NewDay Ltd trading as Fluid to settle as follows:

- 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 Miss M along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information regarding this account from Miss M's credit file.
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Miss M for the remaining amount. Once Miss M has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

If NewDay has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Miss M a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 13 January 2026.

Marco Manente
Ombudsman