

## **The complaint**

Miss H complains that NewDay Ltd trading as Fluid Credit Card irresponsibly lent to her.

## **What happened**

Miss H was approved for a Fluid credit card in July 2020, with a £900 credit limit. The credit limit was increased a further two times. The first credit limit increase was in December 2020 (to £1,900), and in April 2021 (to £3,150). Miss H says that Fluid irresponsibly lent to her. Miss H made a complaint to Fluid, who did not uphold her complaint. Fluid said that they were confident they provided the account responsibly and carried out fair affordability checks. Miss H brought her complaint to our service.

Our investigator did not uphold Miss H's complaint. She said that Fluid made fair lending decisions. Miss H asked for an ombudsman to review her complaint. She made a number of points. In summary, she said the figures Fluid had for her income were significantly larger than what she had originally declared, and Fluid's own affordability assessment gave her limited headroom to make repayments. Miss H said her bank statements would have raised concerns. And she had taken £1,000 in a money transfer with another company in Fluid's wider group prior to the December 2020 credit limit increase.

Miss H said her credit utilisation had increased by the April 2021 credit limit increase, her unsecured debt had increased, there had been a missed payment, she hadn't declared dependants in her application, but she had child benefits, so there was an inconsistency, and she mentioned the exposure to total debt with Fluid's wider group.

## **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 Miss H's complaint points. And I'm not going to respond to every single point made by her. 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.

I must make it clear to Miss H that I'm only looking into her irresponsible lending complaint against Fluid here. I'm aware she has/had another account with a different brand from Fluid's wider group. But I won't be making a finding on lending with another company as part of this decision. But I may reference factual information regarding the other account.

Before agreeing to approve or increase the credit available to Miss H, 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.

#### *Acceptance for the Fluid card*

I've looked at what checks Fluid said they did when initially approving Miss H'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 Miss H had provided them before approving her application.

The information shows that Miss H had declared a gross annual income of £17,600. The CRA did not report any County Court Judgements (CCJ's) or defaults on Miss H's credit file. Miss H was showing as having a debt to annual income ratio of 21.15%, which would have meant she had unsecured debt of around £3,722.40.

Fluid completed an affordability assessment which incorporated Miss H's net income, information from a CRA about how much Miss H's credit commitments were each month, and modelling to estimate Miss H's other outgoings, which is an industry standard way of estimating outgoings. The affordability assessment showed that Miss H should be able to sustainably afford repayments for a £900 credit limit.

I can confirm to Miss H that there were no dependant costs included on the affordability assessment, but it appears that Miss H acknowledges she didn't declare any financial dependants as part of her application, so I can't fairly say that Fluid would be aware if she had financial dependants at this point.

The CRA also reported that Miss H had no accounts in arrears at the time of the checks, and she hadn't been in arrears on any account in the six months prior to the checks.

Miss H also had a credit card with a company in Fluid's wider group. So I would expect Fluid to be able to find out how she managed this account prior to providing her with a £900 credit limit.

The data on her other account shows that at the beginning of 2020, she had unsecured debt of £11,897. So by the time Fluid completed their checks it appeared that Miss H was able to repay a substantial amount of her debt off within a relatively short period of time. She incurred no overlimit or late fees on her other account in the six months leading up to the Fluid account being opened, and she often paid more than the minimum requested repayment, which I wouldn't expect her to be able to make if she was financially struggling leading up to the Fluid account being opened.

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

#### *December 2020 credit limit increase - £900 to £1,900*

I've looked at the information available to Fluid when they increased Miss H's credit limit as part of this lending decision. The checks showed that Miss H's unsecured debt had increased to £4,144 at the time of the checks.

The lending checks were made in October 2020, but the credit limit increase didn't occur until December 2020. In the data for November 2020, Miss H was showing as being in arrears on an account. While the December 2020 data shows Miss H had brought the account up to date, as it's not documented the date when she brought the account up to date, I can't be certain she cleared the arrears before this credit limit was increased.

But even if she did clear the arrears prior to this credit limit increase, her being in arrears in the first place could indicate financial difficulty. So I'm persuaded that this should have prompted further checks by Fluid.

Miss H has mentioned a money transfer she used with the company in Fluid's wider group. But I'm not persuaded that a money transfer in itself should prompt further checks. I say this as this is different from taking cash from a cash machine and not being charged cash advance fees, or cash interest rate. Often interest is similar to the purchase interest rate. But regardless of this, a money transfer is a legitimate feature of an account.

As Miss H has highlighted, the income Fluid assessed for Miss H was significantly different to what she would have originally declared. This is because Fluid use Current Account Turnover (CATO) to assess income. This is an industry standard way of assessing income.

If Fluid would have used Miss H's declared income for all of the three lending decisions, as these were over the space of nine months, I would've found that to be proportionate, given an annual income could realistically be the same nine months later. But as Fluid used a much higher figure, which was likely to also potentially influence higher expenditure for her cost of living, then I'm persuaded that with the arrears on the external account then this should have prompted further checks also.

While I can't rule out a pay rise or promotion for Miss H since she opened the Fluid account, since the CATO was nearly treble the original net income used, I do think this should have prompted further checks.

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 Miss H to find out why she was in arrears, and what her income and expenditure actually were. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss H has provided her bank statements leading up to Fluid offering her the credit limit increase. Miss H's statements show one account which is constantly overdrawn. But being overdrawn does not automatically follow that further credit would be unaffordable for Miss H. I say this because some people choose to use their money for non-essential items as opposed to reducing an overdraft. And her account at times did show spending which would be considered non-priority bills.

Miss H did often transfer the bulk of her income to another account, and I'd like to thank Miss H for providing the statements for that account also. While it doesn't show the balance on this account, it does show the income and expenditure on the account. And I agree with Miss H it would be apparent at this point that she had at least one financial dependant as there is child benefit crediting the account.

Only Miss H would be responsible for the repayments of the Fluid credit card. But all of the outgoings on the secondary statement are not paid by Miss H. So I'm persuaded that it would be fair for Fluid to expect that Miss H wouldn't pay all of the household outgoings, and this is why it would be fair to consider what her financial associate would be paying also towards the outgoings. I'll stress again that while her financial associate wouldn't be responsible for paying any of the repayments on the Fluid account, it wouldn't be fair to include outgoings that Miss H wouldn't be paying towards the household expenditure either.

The bank statement doesn't seem to show returned direct debits or returned payments. And Miss H was paying more than her minimum repayments at the time on her Fluid account (and slightly more on her other account in the wider group). So if Fluid would have reviewed

Miss H's statements as part of a proportionate check, then I'm persuaded that they still would have increased the credit limit to £1,900, and they made a fair lending decision here.

*April 2021 credit limit increase - £1,900 to £3,150*

The checks showed that Miss H's unsecured debt had increased to £5,692 at the time of the checks. So while this was higher than what it was at the last lending decision, it still represented less than a third of Miss H's originally declared gross annual income.

The CRA reported that since the last credit limit increase, no accounts had been in arrears. And while Miss H has said she was utilising more of the credit limits, the reality is she was using less than half of her available credit, so it wouldn't appear that she was hungry for credit.

Again, the income Fluid assessed for Miss H was significantly different to what she originally declared because they used CATO to verify her income. But I'm not persuaded that it would have been proportionate to have made further checks here.

I say this because in addition to there being no recent adverse information on Miss H's credit file, she was making higher repayments on her Fluid account since the last lending decision than her minimum requested repayment. And she incurred no late or overlimit fees.

On her account in Fluid's wider group, she also made repayments which were a lot higher than her minimum requested repayment between December 2020-April 2021 (sometimes on both accounts she made payments more than double her requested minimum repayment). So if Miss H was struggling financially leading up to this lending decision, then it wouldn't be proportionate for her to make much higher repayments. So I'm persuaded that Fluid's checks were proportionate here, and they made a fair lending decision.

I'm sorry to hear about Miss H's later financial difficulties. I can see from Fluid's data that Miss H had unsecured debt of over £17,000 in November 2022. So I can't fairly say that this would have been foreseeable to Fluid over 18 months earlier when they increased the credit limit for the last time. My understanding is that Miss H reached out to Fluid in August 2024 regarding her financial difficulties, so again, I'm unable to fairly say that this would or should have been foreseeable to Fluid over three years earlier when they made the last lending decision on the account.

If Miss H is struggling currently to make her repayments to any account, I would urge her to contact the lender involved to see what forbearance they can offer her.

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 Miss H or otherwise treated her 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 Miss H to accept or reject my decision before 3 April 2026.

Gregory Sloanes

**Ombudsman**