

## **Complaint**

Mr A has complained about a credit card and credit limit increase which New Day Ltd (trading as “Fluid”) provided to him. He says the credit card as well as the limit increase was irresponsibly provided as they were unaffordable.

## **Background**

In January 2021, Fluid provided Mr A with a credit card which had a limit of £1,500.00. Mr A was offered a limit increase to £2,000.00 in February 2023.

One of our investigators reviewed what Mr A and Fluid had told us. And he thought that Fluid hadn’t done anything wrong when accepting Mr A’s application for a credit card in January 2021. However, he didn’t think that it was reasonable for Fluid to increase Mr A’s limit to £2,000.00, in February 2023, so he partially upheld the complaint and thought that Fluid needed to refund any interest, fees and charges it charged Mr A on balances over £1,500.00.

Fluid accepted the investigator’s assessment. However, Mr A disagreed and asked for an ombudsman to look at the complaint.

As the parties agree that Mr A should not have been provided with the limit increase, I have not looked into this matter. Therefore, this decision is solely considering whether Fluid acted fairly and reasonably towards Mr A when initially providing him with a credit card in January 2021.

## **My findings**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr A’s complaint.

Having carefully considered everything, I’m satisfied that what Fluid has already agreed to do to put things right for Mr A is fair and reasonable in all the circumstances. So I’m not requiring it to do anything more or anything further and I leave it up to Mr A to decide whether he now wishes to accept Fluid’s offer. I’ll explain why in a little more detail.

I think that it would be helpful for me to start by setting out that we consider what a firm did to check whether repayments to credit were affordable (asking it to evidence what it did) and determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion – indeed the regulator's rules and guidance did not and still do not mandate a list of checks to be used.

It simply sets out the types of things that a lender could do. It is a for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what done was proportionate to the extent it allowed the lender to reasonably understand whether the borrower could make their payments. Furthermore, if we don't think that the lender did enough to establish whether the repayments to a credit agreement were affordable, this doesn't on its own meant that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances were we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

I kept this in mind when deciding Mr A's complaint.

Fluid says it agreed to Mr A's application and limit increases after it obtained information on his income and carried out credit searches. And in its view the information obtained indicated that Mr A would be able to make sufficient repayments on to clear £1,500.00 within a reasonable period of time.

On the other hand, Mr A says that he shouldn't have been lent to.

I've considered what the parties have said.

What's important to note is that Mr A was provided with a revolving credit facility rather than a loan. This means that Fluid was required to understand whether a credit limit of £1,500.00 could be repaid within a reasonable period of time, rather than all in one go. And a credit limit of £1,500.00 didn't require especially large monthly payments in order to clear the full amount owed within a reasonable period of time.

I've seen records of the information Fluid obtained from Mr A about his income and what was on the credit search carried out. Fluid says that Mr A declared receiving an annual salary of £26,600.00. Fluid's credit search also appears to show that Mr A didn't have any significant adverse information recorded against him at the time either. For example, I can't see any defaulted accounts or county court judgments recorded. Furthermore, according to Fluid's credit search, Mr A didn't have too much in the way of active credit at that time either.

So, in these circumstances, I don't think that it was unreasonable for Fluid to rely on what Mr A said about his income and what it had in relation to his expenditure, particularly in light of the not especially high monthly repayments he would be required to repay on a balance of £1,500.00, within a reasonable period of time.

As this is the case, I'm satisfied that the checks carried out before Mr A was initially provided with his credit card were reasonable and proportionate and Fluid didn't act unfairly when opening Mr A's account.

I've noted that Mr A has said that the investigator's assessment didn't place enough weight on the fact that he was gambling when he applied for this credit card and that he ought to have placed the same weight that he did when considering Fluid's decision to offer him a limit increase.

I'm sorry to hear about Mr A's gambling and the effect that this had on his ability to make his payments on this card. However, Mr A's gambling in itself doesn't mean that his complaint should be upheld. Ultimately, I'm only able to take any gambling into account if Fluid knew about it, or it ought reasonably to have known about it.

In the first instance, there appears to be no dispute that Mr A did not disclose his gambling during the course of his application. So Fluid clearly didn't have any actual knowledge of this. Secondly, for the reasons I've set out above, I'm satisfied that Fluid's checks before lending to Mr A were proportionate. As this is the case, it didn't need to request further information from Mr A and certainly not of the sort – such as bank statements – which may have shown Mr A's gambling.

I accept that both Fluid and the investigator have agreed with Mr A's position that his gambling was relevant at the time he was offered the limit increase. However, for the sake of completeness, I would add that as the parties are in agreement over the limit increase, I've not looked into what happened at this time.

Furthermore, I would add that it doesn't automatically follow that the complaint about Fluid's initial decision to lend to Mr A should now be upheld just because the investigator thought that the complaint about the limit increase, which left the possibility of Mr A owing £2,000.00 and took place two years after the lending decision I've looked at, should be upheld.

Indeed, as the complaint about the limit increase has not been reviewed by an ombudsman, it is possible that I (or another ombudsman) may not have reached the same conclusion on this matter. So Fluid's acceptance of the investigator's assessment on the limit increase does not persuade me that Mr A's complaint about the initial to provide him with a lower amount of credit two years earlier, should be upheld.

In reaching my conclusions I've also considered whether the lending relationship between Fluid and Mr A might have been unfair to Mr A under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I've not been persuaded that Fluid irresponsibly lent to Mr A or otherwise treated him unfairly in relation to the matters that I have considered. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

Overall, I'm satisfied that what Fluid has already agreed to do to put things right for Mr A is fair and reasonable in all the circumstances. So I don't think that it needs to do anything more and I leave it up to Mr A to decide whether he wishes to accept Fluid's offer. I appreciate this will be very disappointing for Mr A. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

### **My final decision**

For the reasons I've explained, I'm satisfied that what New Day Ltd (trading as "Fluid") has already to do to put things right for Mr A is fair and reasonable in all the circumstances of his case. As this is the case, I'm not requiring it to do anything more or anything further and I leave it up to Mr A to decide whether he wishes to accept its offer.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 20 April 2026.

Jeshen Narayanan  
**Ombudsman**