

The complaint

Miss C complains that Capital One (Europe) plc (“Capital One”) irresponsibly provided her with credit she couldn’t afford to repay.

What happened

I issued my provisional decision on this complaint in October 2022. An extract from that provisional decision is set out below.

Capital One approved a credit card application for Miss C in July 2018, the credit limit was initially set at £200 but was increased to £450 in August 2019.

Miss C says Capital One were wrong to provide credit as it wasn’t affordable for her.

Capital One disagree. They say that when they approved the credit card application they reviewed Miss C’s credit file and found she had no arrears, defaults, or County Court judgements. They said they didn’t see any signs of financial difficulty and that Miss C’s declared income and their statistical modelling of her likely expenditure suggested she had sufficient disposable income to sustainably afford repayments. When they increased Miss C’s credit limit in 2019 they also reviewed Miss C’s performance on her account. They noted that she hadn’t missed any payments and had stayed within the applied limit. They reviewed her credit file and didn’t see evidence Miss C was struggling financially. They thought the information suggested the lending was affordable for Miss C.

Our adjudicator agreed but Miss C didn’t. She explained she had taken out a large loan only a few months before she had applied for the credit card and that Capital One should have questioned why she would also need a credit card so soon afterwards. She asked for a final decision by an ombudsman.

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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I’ve had this approach in mind when considering what’s fair and reasonable here.

Account opening

Miss C told Capital One that she was earning about £10,000 per year which is about £830 net per month. The credit file check showed she had recently taken out a loan with repayments of £153 per month and that she had revolving credit of £800 which she’d only been using about £300 of.

The overarching requirement on the lender is to ensure that any new credit it is looking to provide isn’t going to cause financial hardship for the consumer. If the consumer has access

to revolving credit but hasn't used it so far, they potentially have that credit available to them. So, it is reasonable for the business to consider what the consumer can afford should they max out those credit facilities as that could literally happen in one day.

If Miss C used all of the credit available to her (£800 plus this credit limit of £200) and repaid it over a reasonable two year period at a similar interest rate she would pay about £55 per month. So, I think the information Capital One reviewed on Miss C's initial application suggested she had an income of about £833 and credit expenditure of about £208.

That left about £625 before other non-discretionary outgoings were taken into account such as food, clothing, and any housing costs. Miss C had told Capital One that she was living with her parents, but she hadn't clarified whether she was paying any rent or contributing to utility bills or food. In the absence of that information I don't think the checks they performed when the account was opened could be said to be reasonable and proportionate. I think they should have done more to clarify Miss C's expenditure.

I can't be sure exactly what Capital One would have found out if it had asked about Miss C's expenditure. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Miss C's bank statements as to what would most likely have been disclosed.

I've reviewed three months of bank statements leading up to the lending decision. These show that Miss C's income was about £817 per month and she was paying about £400 to £500 a month towards her committed living expenditure including food, travel, and clothing. There were no clear payments towards rent or utility bills.

I think this suggests that once Miss C's credit expenditure was taken into account she would have sufficient disposable income to sustainably afford repayments towards the limited credit Capital One were providing when they approved her application. I don't therefore think Capital One were wrong to provide a card with a £200 limit.

The credit limit increase to £450

Capital One performed similar checks before they applied the limit increase. They were also able to review Miss C's performance on her account. Whilst for the most part she had been paying just the minimum repayments she had been staying within her limit and hadn't missed any payments.

Miss C's credit file didn't show any signs of distress. There were no defaults or County Court judgements and although Miss C had taken out pay day loans in the past there were none listed in the last three months and only limited utilisation of pay day loans before that.

Miss C told them she was earning £11,700 per year (about £942 net per month) and I don't think given the relatively modest credit limit increase being offered that Capital One needed to verify that income. I think it was fair for them to rely on Miss C's income declaration. I can't see that Capital One had information from Miss C's credit file at this point that detailed her credit commitments. So, I don't think the checks they did were reasonable and proportionate.

I've therefore looked at Miss C's bank statements from around the time the credit limit was increased to see what would have likely been disclosed about Miss C's expenditure. I've reviewed three months of statements from the months preceding the limit increase. These show that Miss C was no longer benefitting from the steady income she had been in receipt of when she first applied for her credit card. She was receiving income from various sources and her mother was supplementing it. Ignoring payments from Miss C's mother her

net income was between £445 and £701 per month. Miss C was close to her limit and payments were returned to her account on seven occasions because there were insufficient funds available.

The statements showed monthly non-discretionary payments of around £428, including loan repayments, car expenses and communications bills. There were also expenses for food of about £250 per month. I think that suggests that Miss C was struggling to meet her regular outgoings. She was missing payments, her income was being supplemented by her mother, and her income was not sufficient to sustainably cover her outgoings.

In those circumstances I don't think Capital One were responsible to provide further credit.

My provisional decision

As I don't think Capital One should have increased Miss C's credit limit to £450, I don't think it's fair for it to be able to charge any interest or charges beyond the opening credit limit of £200. But I think Miss C should pay back the amount she has borrowed as she's had the benefit of that money. Therefore, I'm expecting to tell Capital One (Europe) plc to:

- *Rework the account removing all interest, fees, charges, and insurances (which have not already been refunded) and have been accrued on balances over £200.*
- *If the rework results in a credit balance, this should be refunded to Miss C along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Capital One should also remove all adverse information regarding this account from Miss C's credit file.*
- *Or, if after the rework there is still an outstanding balance, Capital One should arrange an affordable repayment plan with Miss C for the remaining amount. Once Miss C has cleared the balance, any adverse information in relation to the account should be removed from her credit file.*

If Capital One 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.

**If HM Revenue & Customs requires Capital One to deduct tax from any award of interest. It must give Miss C 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.*

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.

Miss C and Capital One accepted my provisional decision so I've seen no reason to change it.

Putting things right

My provisional decision therefore becomes my final decision on this complaint.

My final decision

For the reasons I've given above I uphold this complaint and tell Capital One (Europe) plc to:

- Rework the account removing all interest, fees, charges, and insurances (which have not already been refunded) and have been accrued on balances over £200.
- If the rework results in a credit balance, this should be refunded to Miss C along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Capital One should also remove all adverse information regarding this account from Miss C's credit file.
- Or, if after the rework there is still an outstanding balance, Capital One should arrange an affordable repayment plan with Miss C for the remaining amount. Once Miss C has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

If Capital One 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.

*If HM Revenue & Customs requires Capital One to deduct tax from any award of interest. It must give Miss C 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 C to accept or reject my decision before 13 December 2022.

Phillip McMahon
Ombudsman