

The complaint

Mr M complains that Capital One (Europe) plc irresponsibly lent to him.

What happened

Mr M says that Capital One irresponsibly lent to him as they did not do much/any due diligence to check if the credit was affordable for him. He says his recent history on his credit file would have showed financial difficulties he's been in, and he didn't have to provide them with any evidence of his income or expenditure. Mr M says the fees and charges on the Capital One card were not clear at all and the cash withdrawal fees were astronomical.

Mr M says he defaulted on a loan years ago and his credit file clearly showed he'd had financial difficulties in making repayments in the past. Mr M said he was struggling to pay his bills at the time he applied for the Capital One credit card. He said he had been withdrawing cash from credit cards and not enough attention was paid to his credit file. Mr M says he ended up withdrawing large amounts of cash from his Capital One card and they never contacted him to see if everything was ok. He said he went on to borrow more after this in order to afford to pay the minimum payments. Mr M made a complaint to Capital One. As Capital One did not respond to his complaint within eight weeks, Mr M brought his complaint to our service.

Capital One did not uphold Mr M's complaint when they issued their final response. They said the account was opened on 3 December 2021 with a credit limit of £1,500. They said when he applied for the account on 29 November 2021, Mr M confirmed he was employed with an annual income of £31,500. Capital One said other debt commitments that were recorded on Mr M's credit file at the time showed £2,500 in unsecured borrowings (including any outstanding overdrafts). They said they had verified his housing costs and based on their review (and after including non-discretionary expenditure), they believed Mr M should have had enough remaining income to afford repayments for the level of credit they offered within a reasonable period.

Our investigator did not uphold Mr M's complaint. She said she was satisfied the checks the business completed when the account was opened were proportionate, considering Mr M's declared income and financial circumstances at this time, and the credit limit the business offered him. She said based on the information Capital One found, it was reasonable that further checks and verification (such as asking for Mr M's bank statements) wasn't requested. Mr M asked for an ombudsman to review his complaint.

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 Mr M's complaint points. And I'm not going to respond to every single point made by him. 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 explain to Mr M that complaint handling by a business isn't a regulated activity and as such, the issues he's raised that relate directly to how Capital One have/haven't investigated his complaint does not come under my powers to consider. But I was pleased to see this didn't impact Mr M bringing his complaint to our service when they didn't respond within eight weeks of Mr M sending them his complaint email. Mr M has sent our service evidence that Capital One now acknowledged they did receive his complaint email, and I'm pleased that they apologised to Mr M, and they said they would provide feedback, which is a proportionate response for what happened.

Before agreeing to approve or increase the credit available to Mr M, Capital One 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 Capital One have done and whether I'm persuaded these checks were proportionate.

I've looked at what checks Capital One said they did when initially approving Mr M's application for the credit card. Capital One said they looked at information provided by credit reference agencies, estimates of outgoings using figures from the Office of National Statistics, and information that Mr M had provided before they approved his application.

I'm persuaded that the account opening checks were proportionate. I say this as the information showed that Mr M had declared a total income of £31,500 and was employed. It does not appear that Mr M had any arrears on any of his accounts at the time he was approved for the credit card. And the credit limit was less than 5% of what he declared as his gross income.

Capital One were able to see that although Mr M had been in arrears on accounts in the past, or had an arrangement to pay, his accounts weren't showing any arrears from the information Capital One received at the time. There were no defaults showing on the information from the Credit Reference Agencies. The information showed Mr M's payments to his mortgage and unsecured debts, so Capital One would not need to estimate these outgoings.

Capital One used Office of National Statistics data to estimate costs such as food, clothing, utilities, and other items, which is proportionate in the circumstances here. Based on their checks it would not have been proportionate for Capital One to verify Mr M's income and expenditure such as requesting bank statements from him – and this isn't a requirement which lenders must do on every lending decision.

I've considered what Mr M has said about having to borrow more to afford his minimum payments. I can see from the credit file Mr M provided us that he was successful with other applications to other lenders around the same time as he applied for the Capital One credit card.

Mr M's credit file shows accounts including accounts which started 10 November 2021 (with a starting balance of £1,080), 22 November 2021 (with a starting balance of £3,113) and 1 December 2021 (with a credit limit of £1,650). All of these accounts were opened just before his Capital One credit card. But this information was not available to Capital One. Credit files can tend to take up to 4-6 weeks to update. So Capital One would've been unaware Mr M had taken further borrowing just prior to his application, and Capital One wouldn't have been

able to foresee that Mr M would make multiple successful applications for credit around the same time as his Capital One application.

So I'm satisfied that the checks Capital One carried out here, prior to approving the initial £1,500 credit limit were proportionate and that Capital One made a fair lending decision to approve Mr M's application for the credit card based on the information they had.

I've considered what Mr M has said about the cash withdrawals that he made on the account and Capital One didn't contact him about this. But once the credit card was in use, it would be up to Mr M how he decided to use the credit limit available to him. And it wouldn't be proportionate for Capital One to review every transaction Mr M made.

I've considered what Mr M has said about the fees and charges on the account. But I can see from the credit agreement that Mr M signed and dated on 29 November 2021 that this sets out the fees and charges relating to the account (including the cash transaction fee), so I'm persuaded that Mr M would be fully aware of what these would be, and he agreed to these by electronically signing the credit agreement. So it follows I don't require Capital One to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 17 May 2024.

Gregory Sloanes
Ombudsman