

The complaint

Mr D complains that Capital One (Europe) plc, trading as Capital One, shouldn't have approved his credit card application because of his poor credit history and his gambling addiction.

What happened

Mr D applied for a credit card with Capital One, and in May 2017 the application was accepted with a credit limit of £200.

Mr D missed the minimum payments required from May 2018 and the balance exceeded the credit limit due to default fees and interest. In late 2018, Capital One defaulted the account. And the following August, Capital One sold the account to another business.

In November 2018, Mr D complained to Capital One that they had harassed him when attempting to arrange a payment plan. Mr D said they should've frozen interest and charges to the account when they became aware of his financial problems.

Capital One responded to this complaint on 5 December 2018. They explained why the fees and interest had been applied to his account and agreed to stop all further collection calls to him. Their final response told Mr D that he had six months from the date of the response to bring the complaint to our service.

Mr D didn't raise this complaint with our service within six months of the final response. However, he did contact us in December 2019 to complain that Capital One shouldn't have approved his credit card. Mr D says that if they had carried out more checks, they would've seen he had multiple payday or short-term loans, his credit rating was poor, and he had a gambling addiction.

We forwarded Mr D's new complaint to Capital One in March 2020, and they provided their final response the following month. Capital One said their checks didn't show any visible adverse credit information or Notice of Corrections that indicated Mr D had a gambling problem. They said that based on Mr D's declaration that he earned £40,000 per annum, it considered a credit card with a £200 limit was affordable.

Mr D didn't agree with Capital One and asked this service to investigate his complaints. Although Mr D said he had adverse credit history, our investigator explained that because these had occurred in early 2016, it wasn't unreasonable that after 12 months with no apparent recurrence, Capital One offered Mr D a credit card. Our investigator thought Capital One weren't aware of Mr D's gambling addiction when they issued the card, and that they wouldn't reasonably have known this from the card activity. The investigator thought Capital One had done nothing wrong.

Mr D didn't agree with the thoughts of our investigator and asked for a final decision from an ombudsman. Mr D said the investigation didn't address the harassment he suffered before Capital One issued the default notice. He also said the investigator hadn't addressed his

complaint that Capital One should've frozen interest on the account when they became aware of his financial difficulties.

complaints made in November 2018

Mr D says we haven't considered the complaint he made in November 2018, but I can't decide on these particular issues as they weren't included in the complaint form Mr D sent us in December 2019. I've made some preliminary enquiries of Capital One and Mr D because Mr D didn't raise these complaints with this office within six months of Capital One's final response.

I will now arrange for the submissions made by Mr D and Capital One to be considered and decide whether it is fair and reasonable for us to investigate the complaint from November 2018.

However, I will provide my final decision in relation to the complaints Mr D raised in December 2019.

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.

complaint submitted to our service in December 2019

The crux of this complaint is whether Capital One acted reasonably when it accepted Mr D's credit card application. Although I understand Mr D will be disappointed with my decision, I will now explain why I believe Capital One didn't act irresponsibly when it offered him a credit card.

Capital One needed to check whether Mr D would be able to make payments in a way which was sustainable. They also needed to consider things like the amount of credit being applied for and the information Mr D provided about his financial situation. There isn't a set list of checks, but the Financial Conduct Authority (FCA) Handbook explains what it considers to be reasonable credit worthiness checks (CONC 5.2A).

I have seen Mr D has provided credit information that shows he had two defaults. These defaults were in January and February 2016 and were satisfied at least 12 months before Mr D's application was accepted by Capital One.

Capital One say their decision to offer credit was based on information supplied by Mr D. They say they also considered data from credit reference agencies and their own risk strategies. Capital One say they completed various checks including affordability and indebtedness checks and these showed no other accounts were visible on Mr D's credit file. Capital One say Mr D met their eligibility criteria and his declared income of £40,000 per annum, was enough to afford the minimum payments on the card.

I have seen the data Capital One used. It's for Capital One to decide who they give credit to and on what basis. What I'd expect is for Capital One to carry out proportionate checks before they do so, and based on the information available to me, I'm satisfied they did. Capital One are entitled to rely on the declarations by Mr D.

Mr D says that when he applied for the credit card Capital One should've been aware of his gambling problem. However, Mr D didn't tell them of his addiction until he complained in March 2020. I haven't seen any evidence to support Mr D's view that Capital One would

reasonably have known about this. I have seen Mr D's annual card statement from May 2017 until May 2018, and this records only one £20.00 cash type transaction. The rest of the spending was on retail purchases, so it is unlikely that Capital One would've associated the activity on the card with gambling transactions.

I therefore don't agree that Capital One would reasonably have been aware of Mr D's gambling problem until he told them.

My final decision

My final decision is that I don't uphold this complaint and I won't be asking Capital One (Europe) plc, trading as Capital One to take any action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 14 December 2020.

Paul Lawton
Ombudsman