

The complaint

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

What happened

Mr R applied for a credit card from Capital One. This was agreed in October 2015, and a limit of £200 approved. In September 2016, the card was suspended. In November 2016, the account was defaulted when the balance was £360 debit. A payment plan was agreed in June 2019.

Mr R complained that he shouldn't have been given the card in the first place. He had five defaulted debts and four dependents. He had no spare income at all. Capital One didn't do sufficient checks and shouldn't have given him the card. He's paid a lot of fees and interest. His credit file had now been marked and he couldn't get any other credit.

Capital One said they'd lent responsibly. Mr R told them he was earning £16000 per annum. Their credit searches done at the time showed he had five defaulted debts, but none of them were recent to his application. And three of them had been settled (repaid), and another was reducing. There weren't any problems showing in the previous 12 months. The limit of £200 was low. But from when the account was opened, there were missed payments. They tried to give Mr R time to sort himself out, but eventually the account defaulted in November 2016 with the balance £360.64 debit. A payment plan of £5 per month was in place, and the balance as at September 2020 was £120.64 debit.

Mr R brought his complaint to us. Our investigator said Capital One had acted fairly in its lending decision. Furthermore, she could see that Capital One had tried to help with a payment plan. The entries on Mr R's credit file were correct – as they followed a notice of default in September 2016. The default was registered in November 2016.

Mr R asked that his complaint be looked at by an ombudsman.

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.

Mr R says he shouldn't have been given a credit card by Capital One – because he had defaults against him. Soon after getting the card, he missed payments and had late fees. So, the debt mounted up. He was now on a payment plan, but there were adverse entries on his credit file – that were stopping him applying for a mortgage. I've thought about what both Capital One, and Mr R have said to us – including Mr R's further note of appeal.

All lenders have an obligation to lend money responsibly. In considering whether Capital One lent responsibly or not, we have to check whether they acted in line within the Financial Conduct's (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC)

section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments. We look at:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision made bearing in mind the information gathered and what the lender knew about the borrower's circumstances?

I've considered Mr R's application for the credit card. He told Capital One he was earning £16000 per annum. In his complaint – and in his subsequent appeal to us, he said he had five defaults outstanding against him – so this should've alerted Capital One to ask more questions of him before agreeing the card. This is probably the key issue here in deciding on Mr R's complaint. So, I've looked at the default information that Capital One would have seen at the time – from credit reference agencies. It shows five default entries. Three of these were for between £346 and £560 and were "settled" - that is, repaid. So, Capital One would've (rightly) been assured they were not an existing problem. One more debt is shown as defaulted in March 2014 with a balance of £347. But it had reduced to £328 – and it was more than 18 months old. So, Capital One were justified in considering it to be OK. There was one other defaulted debt of £1308 – and while this was outstanding, it was also old – at December 2013. So, I think Capital One acted responsibly in the way they considered Mr R's defaults.

I've gone onto consider what Capital One would've seen if they had made further enquiries of Mr R. For example, if they were concerned, they might well have asked to see his bank statements. Mr R has shown these to us for between June 2015 and October 2015 – when he applied for the card. They show Mr R's weekly salary of £263, and small credit balances. But they shown no sign of financial stress – Mr R was managing to make ends meet OK. So, even if Capital One had seen his bank statements, I don't think they would've changed their decision.

I've seen that following Mr R's problems, and the registration of the default - Capital One agreed a payment plan. They've also refunded a number of fees – so they've acted fairly in trying to help him out. It looks like Mr R has met the agreed payments of £5 per month, so hopefully, things are working out.

All lenders, including Capital One, have an obligation to advise accurate information to credit reference agencies. So - I've looked at the registration of the default in November 2016, and this was correctly applied by them. Unfortunately, this means that Mr R will find it difficult get credit for six years from that time.

So – and I appreciate that Mr R will be disappointed my decision, I won't be asking Capital One to do anymore here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 May 2021.

Martin Lord
Ombudsman