

The complaint

Miss M complains that Capital One (Europe) plc (Cap One) lent to her irresponsibly.

What happened

Miss M had three cards provided by Cap One. The limit on the second card was also increased:

Date	Limit
Card A – April 2015	£200 (closed February 2017)
Card B – June 2015	£500
Card B – limit increase – December 2016	£750
Card C – April 2017	£400

Miss M went onto a payment plan on Card B and Card C in November 2019. Her credit file was marked with late payments.

Miss M complained that Cap One lent to her irresponsibly. She shouldn't have been given the cards in the first place, nor the increase in limit. She used the cards for gambling – and this should've alerted Cap One she had problems. She said she had 20 payday loans and also defaulted debts. When she went onto a payment plan with Cap One, her credit file was marked, and this wasn't fair.

Cap One said they'd acted responsibly. On Card A, Miss M said her income was £9000 per annum and she was a homeowner. There were four defaulted debts showing – but they weren't recent to her application. There weren't any payday loans showing. Payments were made on time. On Card B, Miss M said her income was £10000 per annum, plus other income of £3000. Her other credit agreements were looking OK, and there weren't any payday loans. Payments were made on time. So – the increase in limit on Card B also passed Cap One's credit tests and was agreed. On Card C, Miss M said her income was £13000 per annum and she said she was living with her parents. There had been no late payments or new defaults recorded on her credit file, and there weren't any active payday loans. So, the card was agreed. Cap One said they'd reported the correct data on Miss M's credit file.

Miss M brought her complaint to us. Our investigator said Cap One's checks were reasonable and proportionate – and didn't do anything wrong.

Miss M didn't agree and asked that her 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.

Miss M has said that Cap One shouldn't have given her the cards, nor increased the limit on Card B – as she was gambling and was in financial difficulty. She had more than 20 payday loans – so Cap One should've seen this information and taken the decision not to give her the cards in the first place. And, when Cap One agreed to a payment plan for her – in November 2019, this was marked on her credit file.

All lenders have an obligation to lend money responsibly. We have to check whether Cap One 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 looked at what happened here. When Miss M applied for Card A in April 2015, her application showed she told Cap One she had income of £9000 per annum. I've seen there were two defaults showing on her records, but these were old – in 2011 and 2012. So, Cap One were correct in taking the view that these were some time before – and therefore were OK. Looking at Card B, issued in June 2015 – Miss M said she had total income of £13000 per annum, and was a homeowner. Again, the defaults from 2011 and 2012 were showing – but they were a long time before. There was one payday loan showing on Miss M's credit file – but this was shown as repaid in 2013. So, again all was OK - and Cap One were justified in issuing the card. When they looked at the increase in limit to £750 on Card B, similar information was shown. On Card C, Miss M said her income was £13000 per annum – and living with her parents. The information on defaulted debts and payday loans was the same as for Card B.

Miss M says she was gambling, and this should've alerted Cap One to her problems. I've looked at her statements with Cap One. It looks like all three cards were used almost exclusively for gambling payments. But equally, all minimum monthly payments were made on time on all the cards – up to July 2018. So - I don't think Cap One should've been expected to have been on notice there were problems. And – it's not for Cap One (or us) to pass judgement on how customers choose to spend money – that's up to them.

Things clearly changed for Miss M in the middle of 2018 – when there were late payments and over limit situations on Card B and Card C. There were late fees charged on Card B eight times between July 2018 and November 2019, plus one over limit fee. In October 2019 and November 2019, there were two late fees and one overlimit fee charged on Card C. So – Miss M was showing signs she was in difficulty in 2018 – but that was a long time after the cards were issued, or the limit increased.

Cap One agreed a payment plan for Miss M in November 2019. Interest and fees were stopped, and no payments were needed for three months. I've seen the letter sent to Miss M by Cap One. This outlines the agreement but also says "*If you fail to maintain monthly payments, we'll report these missed payments (arrears) to the credit bureau...*" So – Cap One did say what would happen. All lenders, including Cap One, have an obligation to report

accurate information to credit reference agencies and it's normal that such arrangements are reported as such – so I can't say that Cap One did anything wrong here.

Miss M had said she had a lot of payday loans when the cards were issued, plus other debts. I've seen her credit file – and there are other debts and payday loans showing – but these only appear from 2018 and thereafter – so Cap One wouldn't have been aware of these when they agreed the cards in 2015 and 2017. So – it looks like Miss M's financial difficulties started after Cap One issued the cards to her.

So – and I can see that Miss M will be disappointed by my decision - I think Cap One acted fairly and reasonably, and I won't be asking them 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 Miss M to accept or reject my decision before 2 July 2021.

Martin Lord
Ombudsman