

## **The complaint**

Mr B complains that Capital One (Europe) plc trading as Capital One lent irresponsibly when it approved two credit cards in his name.

## **What happened**

The background to this complaint and my initial conclusions were set out in my provisional decision. In my provisional decision I said:

### ***What happened***

*In March 2018 Mr B applied for a Capital One credit card (card 1). Mr B told Capital One he was employed and earned £15,000 a year. Capital One carried out a credit check and found an unsecured loan with a balance of around £1,000. Mr B has sent us a credit report that shows he also had a County Court Judgement (CCJ) in 2015 and a defaulted credit card in June 2015. Capital One says the application met its lending criteria and approved a credit limit of £200.*

*In May 2018, Mr B exceeded his credit limit. In November 2018 Mr B's payment was late and the credit limit was again exceeded in February 2019. In all cases, the account was brought back within the agreed limits and payments made up.*

*In April 2019 Mr B applied for another credit card with Capital One (card 2). The application said Mr B now earned £20,000 a year. Capital One completed a credit check and found Mr B's unsecured credit with other lenders had increased. The application data shows Capital One found Mr B had opened around nine new credit commitments since his previous application. And the credit check showed Mr B owed around £18,000.*

*Capital One says the application met its lending criteria and it approved a £300 credit limit. In May 2019 Mr B made a payment to Capital One for card 2. Capital One says that was the last payment Mr B made to card 2. The account was ultimately terminated and a default reported on Mr B's credit file. Card 1 hasn't been closed and defaulted but Capital One took the decision to restrict new spending in November 2019 following a number of late payments.*

*Mr B complained that Capital One had lent irresponsibly. Mr B also complained that Capital One had closed and defaulted card 2. Capital One didn't uphold Mr B's complaint and he referred it to this service. An investigator looked at Mr B's complaint, but thought Capital One had dealt with it fairly so didn't ask it to do anything else. In response to the investigator, Mr B said he accepted that the decision to approve card 1 was reasonable but wanted Capital One to refund the interest and charges he'd paid for card 2 and remove the adverse information reported on his credit file. As Mr B asked to appeal, his complaint has been passed to me to make a decision.*

### **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.*

*Before a lender offers credit it should carry out proportionate checks to ensure maintaining the debt is sustainable for the borrower. There's no set list of checks a lender has to complete, but we would generally expect it to consider various factors, including the type of credit, term and applicant's circumstances, when deciding how to proceed. In this case, Capital One approved two credit cards for Mr B so I'll look at each application in turn.*

*When Mr B applied for card 1 he told Capital One he was employed and earning £15,000. Mr B also said he was living with parents. Capital One looked at Mr B's credit file and found he had one credit commitment of around £1,000 at the time. I can see Mr B's credit report shows he also had a CCJ and default from 2015, but that information doesn't appear to have shown on the credit check Capital One completed. And Capital One has confirmed that, as a "second chance lender" it does accept a degree of adverse credit when considering applications.*

*Capital One approved a reasonably modest credit limit of £200. Taking all the available information into account, I'm satisfied Capital One did carry out proportionate checks before deciding to approve Mr B's credit file. I haven't found Capital One lent irresponsibly when it approved card 1.*

*However, I've reached a different view to the investigator concerning card 2. Like Mr B, I think Capital One lent irresponsibly. When Mr B applied for card 2 he gave an increased income of £20,000 and was living with parents. Capital One carried out another credit check. The application data shows Capital One found Mr B's unsecured borrowing increased substantially between March 2018, when he owed around £1,000, to April 2019, when he owed around £18,000.*

*The credit data also shows Mr B had a default and several pay day loans, including one that had an active payment plan. Capital One has also told us that card 1's credit limit had been exceeded twice and that he had late payment in the months after it was opened.*

*Taking all of the information Capital One had available when it looked at Mr B's application for card 2 into account, I'm not persuaded it carried out proportionate checks. I think it should've looked more closely at Mr B's circumstances before deciding whether to proceed.*

*As I've said above, we can't tell a business when checks it should complete when assessing an application. But lenders will often look at verifying income or obtaining bank statements if they want to look more closely at an application. In this case, Mr B has sent us a copy of his bank statements for the period in question. I've focused on the three months before card 2 was approved.*

*During this period, Mr B's income matched the information he gave in the application. But, the bank statements show clear indications that Mr B was struggling to maintain his finances. There are regular deposits from payday lenders and a substantial level of bank charges. In addition, there were signs Mr B was using his account to gamble at a reasonably high level. Had Capital One looked at Mr B's statements, for instance, it would've seen he was both borrowing from payday lenders and gambling at the same time.*

*In my view, had Capital One carried out proportionate checks that looked more closely at Mr B's circumstances it wouldn't have approved card 2. Based on the information I've seen so far, I agree with Mr B that Capital One lent irresponsibly in this case. As a result, I intend to tell Capital One to refund all interest and charges applied to card 2 from inception. The refund should be used to reduced any outstanding balance. If there's a surplus, it should be refunded to Mr B.*

*As I think Capital One lent irresponsibly when it approved card 2 I don't think it's fair for it to report adverse information about it to the credit reference agencies. So I also intend to tell Capital One to remove all adverse information reported about card 2 from inception.*

*If Capital One has sold the debt it should take steps to ensure the refund is applied and no adverse credit information is reported by the new owner. If necessary, Capital One should consider recalling the debt to ensure the settlement can be put in place.*

In my provisional decision I asked Mr B and Capital One to respond with any additional information or points they wanted me to consider before I made my final decision. Neither party responded.

### **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.

As neither party responded with new information for me to consider, I see no reason to change the conclusions I reached in my provisional decision. I still think this complaint should be upheld, for the same reasons.

### **My final decision**

My decision is that I uphold this complaint and direct Capital One (Europe) to settle as follows:

- Refund all interest and charges applied to card 2 since inception
- Amend Mr B's credit file to remove all adverse information reported about card 2

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 August 2021.

Marco Manente  
**Ombudsman**