

## The complaint

Mr M said that Capital One (Europe) plc trading as Capital One lent him money through two credit card accounts, which he said he couldn't afford to pay back. But when he complained, it only refunded the interest he paid on one. He wanted the other card refunded too.

## What happened

Mr M said he had a credit card with Capital One, with a limit of £500. And he said Capital One refused to raise that limit when he asked it to. But in 2020 he applied for a new account, and Capital One accepted his application, giving him a £1,500 limit. Mr M said if Capital One had been a responsible lender and done proper checks, it would've seen that he couldn't afford to pay this back, and would also have seen the gambling problem he had at the time.

Mr M said that he wanted Capital One to refund all the interest he'd paid on the accounts, plus statutory interest. And he wanted it to work out an affordable payment plan for him to clear any remaining debt.

Capital One said it had upheld Mr M's complaint about his first card. It refunded the cost of borrowing, which was £627.51, made up of fees and interest charged, plus 8% statutory interest paid after tax. But it wouldn't make any refund for the second card. It didn't think it had made a mistake by lending him that money.

Capital One said Mr M applied for his second card on 17 January 2019. He told Capital One then that he was employed and earning £21,216 per year, and that he owned his own home. Capital One said it checked his credit file, and whilst that showed several previous defaults, none of them were recent, and all the defaulted balances were being reduced. Capital One also said that Mr M's six active financial agreements were all in good order including his existing Capital One account. Mr M had been paying more than the minimum onto that card, and paying on time. So Capital One said there was no reason for it to think Mr M couldn't afford this lending. It had opened a card account for him with a credit limit of £1,500.

Capital One said Mr M had generally been paying more than the minimum payments to this card, and all his payments had been on time. So it didn't think this lending had been unaffordable for Mr M. It wouldn't pay back interest he'd been charged.

Mr M said that must be wrong. He said if Capital One had checked his credit file, it would've seen that he had lots of debt and defaults on other credit cards and loans, including a credit card with it. Mr M said his take home pay at the time was £1,400 a month. His rent, household bills and transport costs came to about £1,100. Food and clothes costs were about £200 a month. But at this point he said he had over £12,000 of debt, and his monthly debt repayments were more than £600. His minimum repayment to Capital One was over £70 a month. Mr M said he couldn't afford his existing debt and he was having to borrow more every month. And Mr M said that Capital One had said his previous card wasn't affordable, so he didn't understand why this one was fine.

Our investigator didn't think this complaint should be upheld. She said she was satisfied the checks Capital One did when Mr M applied for the card were reasonable, and its decision to lend to him was responsible. His application said that he was earning £21,216, and he owed £6,099 on active accounts at that time. There was no evidence of recent arrears or late payments, and although he had defaults, those were quite old when he applied for the card.

Our investigator said, looking at Mr M's salary and his financial commitments, she thought he would've been able to repay the borrowing in a reasonable amount of time. She said that although Mr M had told her that he was struggling with a gambling problem at the time, she didn't think that Capital One would have known about that when it opened his account.

Mr M didn't agree. He said Capital One had repeatedly refused to let him increase the credit limit on his first card, but then it let him open a second card. And he said if the first card was unaffordable, then the second one would be too. Mr M also said that he had told Capital One he was a homeowner with mortgage which wasn't true, and he said that his bank statements also proved that he earned a lot less than he'd told Capital One. He thought that showed that Capital One didn't do proper checks.

Our investigator didn't change her mind. She said that Mr M's circumstances would've been different when he applied for the first card, in 2016. She had looked at the second card, because Capital One hadn't upheld that complaint. And looking at the information on his credit file in 2019, there was nothing to suggest the lending at this time was too high risk.

Our investigator said that her view of Mr M's complaint didn't mean that the lending didn't become unaffordable over time, it just meant she was satisfied that Capital One carried out suitable checks for the amount of credit it gave Mr M, when he applied for the card.

Our investigator noted that Mr M had told Capital One he was a homeowner, but it would have been able to see that he had no mortgage. And it would use the salary information he provided to assess lending to him.

Mr M said he had asked Capital One for an increase only two months before he opened the other card. And it had said no. He wanted an ombudsman to consider his application, so it was passed to me for a final decision.

### **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.

I've reached the same overall conclusion on this complaint as our investigator.

When Capital One reviewed the lending it made to Mr M on his first card, it looked at the decision it made in April 2016. That review would have taken account of things like a number of very recent defaults. And Capital One has reached the view that it hadn't done enough to show that this lending was affordable for him, back then.

Mr M hasn't complained about this. He's complained that Capital One didn't reach the same view, when it looked at the lending it made to him in 2019.

But just because Capital One thinks it made a mistake in 2016, that doesn't necessarily mean that it has to reach the same decision about the lending it made in 2019. I know that Mr M says he had only recently asked Capital One to increase his credit limit on his first card, and it had said no. But then he completed a full application for a new card, and as part

of this, he updated Capital One on his financial situation. Capital One used this information to assess whether it could lend to him. It doesn't think it made a mistake, and I've not been able to see that it was wrong about that.

Mr M says that Capital One just relied on what he told it about his income and his financial position. He said he exaggerated how much he earned, and if Capital One had done proper checks, it would've realised that.

Businesses aren't automatically required to check that everyone who applies for credit is telling the truth about how much they earn, before they make any lending at all. If Capital One had reason to suspect that Mr M hadn't been honest about his income, then it should've asked more questions before lending to him. But Mr M sent us his current account statements for the three months prior to his application, and although I can see that his income isn't a regular amount each month, the income he declared to Capital One looks to me to be consistent with those statements. From what I've seen, if Mr M had exaggerated about how much he earned, or about his financial position overall, I don't think that Capital One should've realised that.

Mr M also told us that he had a gambling problem, and didn't own his own home. Again, if Capital One had reason to suspect that this was the case, then it should've asked more questions before lending to him. But I haven't been able to see how Capital One would've become aware of these things at the point when Mr M applied for this lending.

I understand that Mr M has told us the real picture in 2019 was very different to what he told Capital One when he applied for this second card. But I don't think that was clear to Capital One. And on what it reasonably understood the position to be then, I think that the checks it carried out, before it lent to Mr M, were sufficient for it to reasonably conclude that this lending would not be irresponsible. So I don't think that Capital One has to do any more now.

I know that Mr M will be disappointed, but I don't think his complaint should be upheld.

### **My final decision**

I don't 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 28 September 2021.

Esther Absalom-Gough  
**Ombudsman**