

The complaint

Mr N complains about Capital One (Europe) plc ("Capital One") for what he feels was irresponsible lending to him, and information which has been recorded on his credit file as a result. He wants Capital One to remove adverse information from his credit file and pay him compensation.

What happened

Mr N had previously used short term loans.

In 2014, Mr N applied for a credit card with Capital One. He declared an income of £21,000.

Capital One approved his application and issued him with a credit card with a credit limit of £200.

Mr N used the card immediately and quickly reached his credit limit. He made regular payments to his card, but remained at or around his credit limit for some time.

Mr N exceeded his credit limit on occasion and late payment fees were applied to his account.

In early 2017, Mr N fell into financial difficulties. He missed payments to his credit card in May, July, August and September 2017 and arrears built up.

In September 2017, Mr N received a letter from Capital One inviting him to enter into a repayment plan. The letter indicated that a plan would show on his credit file as 'trying to resolve the situation'.

Mr N entered into the plan and made monthly repayments of £13 for the next 4 months. He then returned to making variable repayments. Mr N missed some further monthly repayments through 2018 and 2019.

In 2020, Mr N closed his Capital One card.

Mr N viewed his credit report. He complained to Capital One. He felt that Capital One had wrongly reported the payment plan payments as late payments, and he felt that Capital One ought not to have issued him the credit card in the first place, as he had been using other short term debt.

Capital One did not uphold his complaint. Capital One considered that he had met their lending criteria for the limit of £200 and his credit limit had not been increased. Capital One therefore did not think it had lent irresponsibly. It also maintained its decision to report late payments to credit reference agencies.

Mr N was not happy with this and contacted us.

One of our investigators has looked into this matter and set out his view to the parties. During the course of his investigation, Capital One agreed that it had not advised Mr N that

plan payments would be reported as late payments and so Capital One agreed to remove those late payment markers and to pay Mr N £150 compensation.

Our investigator did not consider that Capital One had been wrong to lend to Mr N and did not recommend upholding the complaint.

Mr N did not accept that view and asked for an ombudsman 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.

Mr N has expressed that he is concerned about all the negative information reported to credit reference agencies about his Capital One card. I understand this and that the reporting overall is having a substantial effect on Mr N.

Whilst I sympathise, my role is to look at whether Capital One has acted unfairly and unreasonably. Where it has, I can direct that it take action to rectify this.

In this situation however, I have reviewed my colleague's view and I agree with this. It is clear that the information Capital One provided to Mr N regarding the payment plan was not sufficiently clear that this would be reported as late payments. The literature explicitly stated that the plan would show as trying to resolve debt, and so it was unfair for Capital One to continue to report this as late payments.

In respect of the remainder of the term of the card, however, CapitalOne had provided its terms and conditions which showed that late or missed payments would be reported to credit reference agencies. Mr N missed a number of payments outside of the payment plan and these terms would apply to these missed payments.

Mr N has explained that amending his credit file for a period of four months is little help when the remaining adverse information can remain. Capital One has stated that it is obliged to report accurate information to credit reference agencies and that it has done so.

I think that Capital One was clear about what would ordinarily be reported about late or missed payments, and so I cannot say it acted unfairly when it reported these in line with the terms and conditions. I also cannot say it would now be fair to require Capital One to remove information which was reported in this way.

This is with the exception of the period October 2017 – January 2018 when Mr N was on a payment plan. This ought not to be reported as adverse information as Mr N was given the assurance that it would show as positive information.

I agree that CapitalOne ought to pay Mr N £150 compensation for wrongly reporting the payment plan, and that this sum is in line with other awards we would make in similar circumstances.

Looking then to whether CapitalOne was right to lend to Mr N, I again agree with the investigator.

When making lending decisions we expect lenders to carry out proportionate checks to ensure that a consumer can afford the debt.

Little evidence is still available as to the checks carried out, but I agree that the presence of

short term lending on Mr N's credit report would not have been an automatic barrier to borrowing. Mr N declared a salary of £21,000 at the time and clearly wanted the credit card when he applied. I do not think it was unreasonable to lend to him with a modest limit in those circumstances. I note that Mr N did not have his credit limit increased over the remaining term of his card.

Overall, whilst I understand Mr N's concerns and position, I do not think that Capital One has acted unreasonably (save in relation to reporting the payment plan as late payments). And I uphold only that part of the complaint.

I realise that this will be disappointing to Mr N but I hope it clearly explains my reasons.

Putting things right

In order to put Mr N back in the position he would have been in without the failings, Capital One ought to remove any adverse data it reports in respect of this card for the period October 2017 – January 2018 (inclusive). Capital One should also pay to Mr N £150 compensation.

My final decision

For the reasons given above I partially uphold Mr N's complaint and direct Capital One (Europe) plc to:

- Remove any adverse data from Mr N's credit file relating to this credit card for the period October 2017 – January 2018; and
- Pay to Mr N £150 compensation for his distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 6 April 2022.

Laura Garvin-Smith
Ombudsman