

## **The complaint**

Mrs G complains that Capital One (Europe) plc ("Capital One") provided her with credit she couldn't afford to repay.

## **What happened**

I issued my provisional decision on this complaint in September 2022. An extract from that provisional decision is set out below.

*Capital One approved two credit cards for Mrs G. One in March 2021 with a credit limit of £1,500 that has never been used, and one in September 2021 with a limit of £1,000. Mrs G says they were wrong to provide credit as it wasn't affordable for her and she also says they didn't consider her vulnerability when lending to her.*

*Capital One disagree. With regard to the second application that they approved in September they say they used a combination of credit reference agency, computer modelling, and self-reported information to assess the application. They say that Mrs G's credit file demonstrated she was managing her credit commitments well; there were no County Court Judgments against her, and no arrears on her accounts. They identified some historic defaults but still thought the information suggested the card was affordable for Mrs G.*

*Our investigator agreed and she noted that they weren't aware of Mrs G's vulnerabilities until after the credit card was approved, so she didn't think it fair to suggest they should have dealt with Mrs G's application any differently.*

*Mrs G didn't agree and thought the credit was unaffordable, so the complaint has been referred to me, an ombudsman, for a final 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.*

*I was very sorry to hear about Mrs G's health problems and the impact this issue was having on her.*

*Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable in the circumstances of this complaint.*

*I am not considering the first credit card application. That's because Mrs G didn't use the card and therefore hasn't paid any interest or charges on it or benefitted from the credit on the card. So, even if I thought this card had been irresponsibly provided I wouldn't be able to ask Capital One to return any payments as none have been made.*

## **The September 2021 application**

*I think the checks Capital One completed were reasonable and proportionate. But that doesn't necessarily mean the lending decision was fair. So, I've thought about what the information they'd collected showed them and whether that meant the credit was affordable for Mrs G.*

*Mrs G's credit file showed several defaulted accounts. The accounts had been defaulted between October 2016 and May 2018. £25,206 of the £26,679 of defaulted balances remained unpaid.*

*Whilst they were historic defaults and Mrs G's performance on her credit file had improved, I think the significant balances due on these accounts was troubling. Mrs G's income was only £10,000 and it was therefore unclear how she would pay the debts if court proceedings enforced them. It would have been apparent from the reducing balances that Mrs G was paying something towards the defaulted balances, and creditors may therefore have been happy to continue receiving payments rather than incur trouble and expense enforcing the debts, but that couldn't be guaranteed.*

*The credit being provided was a tenth of Mrs G's total income, so it wasn't inconsiderable. Capital One knew that Mrs G had other revolving credit available to her. The credit file showed them that with this card, her mail order accounts, and the other credit card Mrs G had with them, the revolving credit available was £3,475.*

*When considering whether credit was affordable Capital One needed to assume Mrs G had drawn down the entire credit limit available to her and I think that, along with the significant defaulted account balance, would have suggested, even without completing further checks, that it was irresponsible to increase Mrs G's indebtedness further.*

*I don't think Capital One were aware of Mrs G's vulnerability before they made their lending decision, so I don't think they needed to take account of that when they made the decision to lend. As they are now aware of it I would expect them to be supportive of Mrs G if there's a balance on the account she is struggling to pay. They should agree an affordable repayment plan with her.*

### **My provisional decision**

*As I don't think Capital One should have approved the second credit card application I don't think it's fair for it to charge any interest or charges. However, Mrs G has had the benefit of all the money she spent on the account so I think she should pay that back. I'm therefore expecting to tell Capital One to:*

- 1. Refund all interest, charges, and insurances Mrs G paid (which have not already been refunded).*
- 2. If the borrowing is still in place, reduce the outstanding balance by the amount calculated in Step 1.*
- 3. If, after Step 2, there remains an outstanding capital balance, ensure that it isn't subject to any historic or future interest and/or charges. But if Step 2 leads to a positive balance the amount in question should be given back to Mrs G with 8% simple interest\*.*
- 4. Remove any adverse information they may have reported to Mrs G's credit file as a result of the interest and charges.*

*\*HM Revenue & Customs may require the business to take off tax from this interest. If it does, the business must give the consumer a certificate showing how much tax it's taken off if they ask for one.*

## **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.

Capital One accepted my provisional decision and Mrs G wanted to add a few comments. She explained that she had told Capital One about her financial situation and vulnerability and the mental and physical impact this was having on her. She said that she'd received a work capability assessment in July 2020 and that had established she had health conditions that meant that she was unable to work, she said she sent confirmation of that to Capital One. She went on to explain she had also sent a Debt and Mental Health Evidence Form in August 2021 which explained she was experiencing mental health issues.

I've not asked Capital One for clarification they received this information as I don't think it would change my decision to uphold Mrs G's complaint. I don't think it suggests Capital One should take any additional action either. It wouldn't be fair, for example, to tell them to refund the capital provided as well, as Mrs G has had the benefit of that money. But the information does support the provisional decision I reached.

## **Putting things right**

I've not been provided with evidence that has led me to change my provisional decision and that provisional decision therefore becomes my final decision on this complaint.

## **My final decision**

For the reasons I've given above I uphold this complaint and tell Capital One (Europe) plc to:

1. Refund all interest, charges, and insurances Mrs G paid (which have not already been refunded).
2. If the borrowing is still in place, reduce the outstanding balance by the amount calculated in Step 1.
3. If, after Step 2, there remains an outstanding capital balance, ensure that it isn't subject to any historic or future interest and/or charges. But if Step 2 leads to a positive balance the amount in question should be given back to Mrs G with 8% simple interest\*.
4. Remove any adverse information they may have reported to Mrs G's credit file as a result of the interest and charges.

\*HM Revenue & Customs may require the business to take off tax from this interest. If it does, the business must give the consumer a certificate showing how much tax it's taken off if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 31 October 2022.

Phillip McMahon  
**Ombudsman**