

The complaint

Miss L has complained that Capital One (Europe) plc ("Capital One"), irresponsibly granted her a credit card account, which she couldn't afford to repay.

What happened

Miss L took out a credit card with Capital One in March 2021, with a credit limit of £200. There were no increases in the limit after this.

Miss L said she thought Capital One shouldn't have issued the card, as she was in a Debt Management Plan (DMP) at the time due to her debt problems. She said that she can't clear the debt and is under financial pressure. She said she would like Capital One to refund the interest and charges on the card, and also remove information about the card from her credit file.

Miss L complained to Capital One, but it told Miss L that it did not uphold her complaint. She then brought her complaint to this service. Our investigator looked into it, but didn't think it should be upheld. Miss L didn't agree, so the complaint has come to me for review.

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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website, and I've taken this into account here.

I've decided not to uphold Miss L's complaint. I'll explain why.

In summary, before providing credit, lenders need to complete reasonable and proportionate affordability checks. There isn't a set list of checks required of a lender, but it needs to ensure the checks are proportionate when considering things such as the type and amount of credit being provided, the size of the regular repayments, the total cost of the credit and the consumer's circumstances. So I've considered whether Capital One completed reasonable and proportionate checks to satisfy itself that Miss L would be able to make the repayments on the credit card account in a sustainable way.

Miss L sent in a copy of her credit record. Capital One sent in copies of the checks it carried out, the application details and credit card agreement, a list of transactions and records of its contact with Miss L.

The application information shows that, when Miss L applied for the credit card, she said her annual income before tax was £21,000. She also said she had rental costs of £600 each month. Capital One said it used this information, along with the credit commitments recorded on Miss L's credit history, and an estimate of other living expenses based on Office for National Statistics data.

From the information Capital One sent in, I can see that it drew information from two credit reference agencies, and I have a summary of the information it received. Not all companies share information with all credit reference agencies, so the information isn't exactly the same from both agencies. On one set of information, it looks as though one of Miss L's credit commitments – a mail order account – was recorded as having a payment plan in place, but her other accounts were operating normally. This set of information also showed a number of closed accounts.

Capital One said in its final response letter to Miss L that the records showed her as having unsecured debt totalling just under £7,800, but the information it provided to us showed this as being nearer £9,500. I can also see from this that Miss L had defaulted on two accounts, the most recent being in September 2019.

However, Capital One said that it took the view that the credit limit of £200 – and the minimum monthly payments (around £6 to £10) that would be required on that balance - was affordable for Miss L, taking account of her income and known and estimated outgoings.

Miss L didn't agree with some of these figures. She said that her income of £21,000 included state benefits as well as her salary, and that her unsecured debt was higher. She also provided a list of accounts that she said were included in her DMP, and when this started in 2019 her unsecured debt was around £12,900. She was still in the DMP in March 2021, and indeed is still in the DMP now.

Miss L further said that she had complained to Capital One about irresponsible lending on a credit card on a previous occasion, and this complaint had been upheld. Taking these factors into account, Miss L didn't think Capital One had carried out enough checks before granting the credit card in 2021, and that it shouldn't have issued the card.

I've thought carefully about what Miss L has said, along with the evidence sent in by both parties.

I've firstly considered whether Capital One carried out reasonable and proportionate checks before granting the credit card. I think it did. I say this because, given the low credit limit of £200, and the small minimum payment amount required each month, I think it was reasonable for Capital One to rely on the income and housing figures provided by Miss L, along with the credit reference information it drew on, and the estimate of her living expenses.

I also don't think that Capital One could reasonably have known that Miss L was in a debt management plan from the credit reference agency information it received – as I noted above one account was shown as having a payment arrangement in place on one credit reference agency record. Monthly payments on her other credit commitments were recorded as being up to date. While Miss L had a reasonably high amount of unsecured debt, it was not excessive relative to her salary, and the additional credit being granted was low.

Miss L said that her income was partly made up of state benefits. Again, based on the information that Capital One had, I don't think it could reasonably have known this. And in any case, being in receipt of state benefits is not, in itself, a reason for credit to automatically be declined.

I've also thought about Miss L's comments about a previous complaint about irresponsible lending by Capital One having been upheld. I don't have any information about that, and I note that the earlier credit card was granted in 2019. I don't know what Miss L's circumstances were at that time, so I can't draw any conclusions from that in reaching my decision about this complaint.

Having considered the information Capital One had at the time of Miss L's application, I haven't seen anything that makes me think it should have carried out more detailed enquiries before issuing the credit card. Whilst one account was shown as having a repayment plan, given the low credit limit being granted, I think it was reasonable for Capital One to rely on the information it had obtained in deciding whether to lend to Miss L.

From all this, I think it was reasonable for Capital One to conclude that Miss L had sufficient disposable income to meet the payments on the new card, and I don't think there was information to suggest that the payments would be unsustainable. So I don't think Capital One acted unfairly in granting the card and therefore I don't uphold this complaint.

I've also considered whether Capital One acted unfairly or unreasonably in some other way given what Miss L has complained about, including whether its relationship with Miss L might have been viewed as unfair by a court under s.140A Consumer Credit Act 1974.

However, for the reasons I've already given, I don't think Capital One lent irresponsibly to Miss L or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained, I've decided not to uphold Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 31 October 2024.

Jan Ferrari
Ombudsman