

## **The complaint**

Miss L complains that Capital One (Europe) plc have irresponsibly lent to her.

## **What happened**

Miss L was approved for a second Capital One credit card in March 2022 with a £1,250 credit limit. She says Capital One irresponsibly lent to her based on her existing borrowings at the time of her application, and if Capital One had carried out appropriate checks they would have seen she was in financial hardship. Miss L made a complaint to Capital One.

Capital One did not uphold Miss L's complaint. They said Miss L told them she earned £25,000 gross annual income, and they estimated her expenditure using the Office for National Statistics (ONS) data, along with information Miss L included on her application, and information from the Credit Reference Agencies (CRA's), and they said she should have had enough income available in order to meet her repayments on the account. Miss L brought her complaint to our service.

Our investigator did not uphold Miss L's complaint. He said the credit check showed she had existing credit accounts with outstanding balances totalling around £5,626. He said alongside this, the repayment history of the accounts showed no missed payments, defaults or other adverse information, so Capital One's checks were proportionate and they made a fair lending decision.

Miss L asked for an ombudsman to review her complaint. She sent us a copy of her credit file and she said she had one account with a £4,000 balance, a credit card with £5,000 balance, another Capital One credit card with a £1,850 balance and a loan with repayments of £226 a month at the time Capital One approved her application.

## **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.

Before agreeing to approve the credit available to Miss L, Capital One needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Capital One have done and whether I'm persuaded these checks were proportionate.

I've looked at what checks Capital One said they did when initially approving Miss L's credit card. Capital One said they looked at information provided by CRA's and information that Miss L had provided before approving her application.

The information showed that Miss L had declared a gross annual salary of £25,000. Miss L had active accounts showing from the CRA's, and the total amount of unsecured debt being

reported by the CRA's was £5,626. If Miss L used all of the credit from her new Capital One account then her total debt to annual gross income ratio would be around 28%.

Capital One have said they used ONS data to help calculate Miss L's affordability. This is an industry standard way of calculating affordability. And although they haven't provided these figures to our service, there are other indicators in the checks Capital One completed which indicate the lending would be affordable and sustainable for Miss L.

I say this because the checks from the CRA show payment history for the last 12 months, which show no arrears or adverse information. The checks also show some accounts that Miss L had settled even going back as far as 2019. There were no defaults, County Court Judgements or adverse information showing when these accounts were settled, so I'm persuaded the checks Capital One completed were proportionate, and a fair lending decision was made based on the information Capital One obtained.

But I have looked at the credit file Miss L has sent us. I'd like to thank Miss L for forwarding this to me, but unfortunately, this doesn't change my decision, and I'll explain why. The loan payment she's referenced was for a loan she opened after she applied for the Capital One credit card. So I can't fairly say Capital One would have been aware that Miss L would do this.

The account Miss L has mentioned which was for £4,000 does not show on the credit file she provided to us, or on the data Capital One received from the CRA's. It could be that this lender doesn't report account activity to the CRA's or that they are reporting the account activity to a different CRA than what Miss L or Capital One uses.

But here, Capital One considered all of the information from a CRA, which did include the other Capital One account which I think was the right thing to do. It also included the £5,000 credit limit account Miss L said she has, but I do note that her credit file shows the credit limit was lower than £5,000 at the time her Capital One checks were completed.

If Miss L is still in financial hardship I would urge her to contact Capital One to see what options they have available to her to ease any financial difficulty she is having.

I've also considered whether the relationship might have been unfair under s.140A of the 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. So it follows that I won't be asking Capital One to do anything further.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 1 November 2024.

Gregory Sloanes  
**Ombudsman**