

The complaint

Mr S complains that Capital One (Europe) plc lent irresponsibly when it approved his credit card application.

What happened

Mr S applied for a credit card with Capital One in June 2023. In his application, Mr S said he was employed with an income of £32,500. Mr S also said he was renting at £575 a month. Capital One carried out a credit search and found Mr S had a mail order account with a credit limit of £1,000 and outstanding balance of £514. An unsecured loan with an outstanding balance of £473 and monthly repayments of £12 was also found. Capital One also found Mr S had a current account with associated overdraft limit of £2,500 and outstanding balance of £2,205. The newest account recorded on Mr S' credit file was from April 2022 for communications supply (mobile phone or internet). No missed payments, defaults or adverse credit were found on Mr S' credit file.

Capital One says it used the rent figure Mr S provided of £575 as well as an estimate of his general living expenses. In addition, Capital One says it took the cost of servicing Mr S' existing credit commitments into account. Capital One applied its lending criteria and approved Mr S' credit card application with a credit limit of £1,500.

Last year, Mr S complained that Capital One lent irresponsibly and it sent him a final response. Capital One said it had carried out the relevant lending checks and didn't agree it lent irresponsibly.

Mr S referred his complaint to this service and it was passed to an investigator. They thought Capital One had carried out reasonable and proportionate checks before approving Mr S' credit card and that its decision to approve his application was reasonable based on the information it obtained. The investigator wasn't persuaded Capital One lent irresponsibly.

Mr S asked to appeal and said his credit file should've shown Capital One he was heavily reliant on credit. Mr S said that he'd made multiple applications for new credit in the months leading up to his Capital one application. Mr S also explained he was gambling at a high level which was reflected by the information recorded on his credit file. Mr S said that the information Capital One obtained should've led it to carry out more comprehensive lending checks, like looking at his bank statements to get a clearer picture of his circumstances. Mr S said that if Capital One had seen his bank statements it would've found he was gambling heavily and declined his application. As Mr S asked to appeal, his complaint has been passed to me to make a 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.

Before agreeing to lend, the rules say Capital One had to complete reasonable and proportionate checks to ensure Mr S could afford to repay the debt in a sustainable way.

These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

As I've noted above, Mr S provided details of his income and living situation in his application. Mr S said he was employed with an income of £32,500 and renting at £575 a month. Capital One obtained an estimate of Mr S' general living expenses using data from the Office of National Statistics which is an approach it's allowed to take and in line with industry regulations. In addition, Capital One looked at Mr S' credit file to get a picture of how his existing commitments were managed and how much he owed.

In response to the investigator, Mr S said that his credit file should've shown Capital One that he was heavily reliant on credit. But Capital One's forwarded the credit file information it obtained. I note that Capital One carried out credit searches with two of the main credit reference agencies. In my view, the information it obtained doesn't show Mr S owed an unusually high amount or was borrowing at an unsustainable rate. Whilst Mr S says he'd applied for new credit on several occasions in the previous months, the credit file results show that the most recent new account that was opened was from April 2022, over a year before his application to Capital One. That account related to communications. The most recent credit account that was reported was the unsecured loan with a starting balance of £500 and payments of £12 a month that was opened in June 2021. There can be a lag in terms of how long it takes new accounts to appear on a credit file. So it's possible Mr S had applied for new credit in the weeks leading up to his Capital One application and that the accounts weren't yet being reported. But I have to base my decision on the information that was available to Capital One when Mr S applied. And I'm satisfied that there were no accounts less than a year old when Capital One checked Mr S' credit file.

I understand Mr S' point that he was using his overdraft each month, shortly after his payday. But Capital One wouldn't have known when Mr S was paid. The credit file results showed Mr S owed £2,205 against a limit of £2,500. I agree that shows Mr S was using an overdraft but I'm not persuaded that, on its own, would've been sufficient for Capital One to have known he was gambling or experiencing financial difficulties.

Mr S' response to the investigator said he'd previously been made bankrupt. But that information wasn't shown on the credit file results Capital One obtained. Mr S' credit file didn't show any defaults, County Court Judgements or other adverse credit. In addition, there were no arrears recorded on Mr S' credit file during the preceding 12 months. I've read and considered everything Mr S has provided and said in response to the investigator, but in my view his credit file indicated he was managing his commitments reasonably and borrowing at a level that was in line with his income.

Mr S has also explained that he suffers with mental health difficulties that can impact the way his finances are handled. In response to the investigator, Mr S pointed out there was no

way he could notify Capital One of those difficulties within the application. I agree that's the case, but I think it's reasonable to note that there's nothing in the rules Capital One operates under that say it should ask applicants about their mental health or use that information in a lending assessment. So whilst I understand why Mr S feels this is something Capital One should've taken into account, I'm unable to agree it acted unfairly by proceeding with his application.

Overall, I'm satisfied the level and nature of checks Capital One completed were reasonable and proportionate to the amount and type of credit Mr S applied for in June 2023. I'm sorry to disappoint Mr S but I haven't seen anything in the application information Capital One obtained that should've caused it to either ask for additional evidence from him (like bank statements) or decline his application. In my view, the decision to approve Mr S' credit card was reasonable based on the information Capital One requested from him and obtained from the credit reference agencies. I'm sorry to disappoint Mr S but I haven't been persuaded that Capital One lent irresponsibly when it approved his credit card application in June 2023.

I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Capital One lent irresponsibly to Mr S or otherwise treated him unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

My decision is that I don't uphold Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 February 2025.

Marco Manente
Ombudsman