DRN-5472566

Complaint

Miss C has complained that Capital One Europe plc ("Capital One") irresponsibly provided credit cards as well as subsequent credit limit increases to her.

She says that the credit cards and limit increases were unaffordable and she's never been able to get out of the debt that being provided with this credit caused.

Background

Capital One provided Miss C with two credit cards. The history on these accounts is as follows:

Card A

Capital One provided Miss C with a first credit card ("Card A"), with a credit limit of £200 in July 2017. It subsequently offered Miss C credit limit increases to £450 in June 2018, then £700 in April 2019 and finally £1,700.00 in February 2020.

The balance was fully repaid in December 2020 and the account was closed shortly afterwards.

Card B

Capital One provided Miss C with a second credit card ("Card B") which had a credit limit of £500 in July 2022. The credit limit on this card was increased to £750 in July 2024.

In August 2024, Miss C complained saying that both credit cards as well as the limit increases Capital One provided were unaffordable and caused her continued financial difficulty as she she's never been able to get out of the debt that being provided with this credit caused.

Capital One didn't uphold Miss C's complaint as it believed that she had complained about the decision to provide the Card A and the first credit limit too late. It didn't think it did anything wrong when increasing Miss C's credit limit on the final two occasions on Card A or when providing the Card B or increasing its credit limit. Miss C remained dissatisfied after Capital One's response and referred her complaint to our service.

One of our investigators reviewed what Miss C and Capital One had told us. He thought that he hadn't seen enough to be persuaded that Capital One failed to act fairly and reasonably either when initially providing Miss C with her credit cards, or the credit limit increases. This meant that the investigator didn't recommend that Miss C's complaint be upheld.

Miss C disagreed with the investigator's conclusions and asked for an ombudsman to look at her complaint.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Capital One has argued that Miss C's complaint was made too late because she complained more than six years after the decisions to provide the credit card and the credit limit increases; as well as more than three years after she ought reasonably to have been aware of her cause to make this complaint.

Our investigator explained why it was reasonable to interpret the complaint as being one alleging that the relationship between her and Capital One was unfair to her as described in s140A of the Consumer Credit Act 1974 ("CCA"). He also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Miss C's complaint. Given the reasons for this, I'm satisfied that whether Miss C's complaint about some of the specific lending decisions was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Miss C's complaint should be considered more broadly than just those lending decisions. I consider this to be the case as Miss C has not only complained about the respective decisions to lend but has also alleged that the repayments unfairly caused her continued financial difficulty as she's never been able to get out of the debt that being provided with this credit caused.

I'm therefore satisfied that Miss C's complaint can therefore reasonably be interpreted as a complaint about the fairness of her relationship with Capital One. I acknowledge Capital One still doesn't agree we can look at all of Miss C's complaint, but given the outcome I have reached, I do not consider it necessary to make any further comment or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Miss C's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Miss C's complaint can be reasonably interpreted as being about the fairness of her relationship with Capital One, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Capital One) and the debtor (Miss C), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Miss C's complaint, I therefore need to think about whether Capital One's decision to provide credit cards to Miss C and increase her credit limits, or its later actions resulted in the lending relationship between Miss C and Capital One being unfair to Miss C, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Miss C's relationship with Capital One is therefore likely to be unfair if it didn't carry out reasonable enquiries into Miss C's ability to repay in circumstances where doing so would have revealed the credit cards or limit increases to be irresponsible or unaffordable. And if this was the case, Capital One didn't then remove the unfairness this created somehow.

I've considered Miss C's complaint in this context.

Our typical approach to unaffordable and irresponsible lending complaints

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Miss C's complaint.

Bearing in mind Miss C's response to our investigator, I think that it would be helpful for me to set out that we consider what a firm did to check whether any repayments to credit were affordable (asking it to evidence what it did) and then determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion. Indeed, the requirements have not and still do not mandate a list of checks that a lender should use. Any rules, guidance and good industry practice in place over the years has simply set out the types of things that a lender could do when considering whether to lend to a prospective borrower.

It is for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what was done was fair to the extent it allowed the lender to reasonably understand whether the borrower could make their payments. Furthermore, if we don't think that the lender did enough to establish whether the repayments that a prospective borrower might have to make were affordable, this doesn't on its own mean that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances were we were able to recreate what reasonable checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

Were the decisions to provide the credit cards and subsequent credit limit increases unfair?

Card A

As explained in the background section of this final decision, Card A was opened in July 2017 with a credit limit of £200 and the credit limit was gradually increased until it reached £1,700.00 in February 2020.

Both of Miss C's credit cards, under the regulator's rules and guidance, are also known as revolving credit facilities. As these were revolving credit facilities, this meant that for Card A Capital One was required to understand whether Miss C could repay £200, £450, £700 and then £1,700.00 within a reasonable period of time. Not whether she could pay the entire amount in one go.

I understand that Miss C declared that she had an annual income of £16,000.00. Capital One also carried out a credit check before initially agreeing to provide Card A and then increasing the credit limit. Capital One's credit checks appear to show that Miss C didn't have any significant adverse information such as defaulted accounts or county court judgments ("CCJ") recorded against her, at the time of all of these lending decisions. I appreciate that Miss C may disagree with this but the amount that she already owed wasn't excessive either.

What is important to note is that credit limits of £200, £450 and £700 would have required relatively low monthly payments in order to clear the full amount owed within a reasonable period of time. And the information I've seen about Miss C's circumstances does suggest that Capital One was reasonably entitled to conclude that Miss C had the funds to make the payments required to repay £200, £450 and £700 within a reasonable period of time.

As this is the case, I'm satisfied that it wasn't unreasonable for Capital One to have agreed to have provided Miss A with Card A in July 2017 or the first two credit limit increases in June 2018 and April 2019. It follows that I'm not persuaded that there was any unfairness created at these stages.

The final limit increase on this credit card saw Miss C's credit limit being increased to £1,700.00. Given the monthly repayments that would be required to clear such a limit within a reasonable period of time, there is an argument for saying Capital One needed to ask Miss C about her living expenses, rather than relying on estimates of this, before it offered this increase.

However, I'm not persuaded that Capital One carrying out such checks would have led to it deciding against offering to increase Miss C's credit limit. I say this because having considered the information Miss C has provided, I can't see that her monthly committed living costs were substantially higher than the combination of declared information and statistical data which Capital One used.

In these circumstances, I'm not persuaded that Capital One asking Miss C about her living costs, rather than relying on estimates, would have seen it decide against increasing her limit. And I'm therefore not persuaded it was unfair for Capital One to offer to increase Miss C's credit limit in February 2020, or that doing so caused unfairness.

Card B

As explained in the background section of this decision, Capital One subsequently provided Miss C with Card B, which had a credit limit of £500, in July 2022. Capital One has said that it carried out credit searches on Miss C and considered these results in conjunction with relying on Miss C's conduct and record on Card A when deciding if it should accept the application for Card B.

Capital One's credit check showed that the amount Miss C owed had increased since she'd applied for Card A. However, her declared income had also increased by this stage too. Furthermore, while Miss C has referred to being offered additional credit when she'd only made minimum payments, Miss C had actually fully cleared the balance on Card A before Card B had provided.

As Miss C had proven herself able to repay £1,700.00 within a reasonable period of time – the balance had been cleared in full within ten months of the limit increase – it's difficult for me to say that it was unreasonable for Capital One to reach the conclusion that Miss C could repay £500 within a reasonable period of time.

It's also worth noting that while Miss C did sometimes make the minimum payment after she was provided with Card B, there are many occasions where she paid substantially more than this. And the total payments made to the card were consistent with repaying £750 within a reasonable period of time.

I also have to consider that as Capital One was only providing Miss C with the opportunity of spending a further £250, it was taking steps to ensure that her indebtedness wasn't rapidly increasing, or doing so in an unsustainable manner. This is particularly as the information from Capital One's credit search didn't show that any indications of a deterioration in Miss C's circumstances – for example defaults or county court judgments being issued against her, or any payday type lending.

I know that Miss C says her position was worse than what the information Capital One obtained showed and I know that Miss C sought to enter a debt management plan in 2025. I'm sorry to hear about this and the fact that Miss C has had difficulty making her payments. However, I don't think that Capital One could possibly have known this would happen at the time of its lending decisions. And bearing in mind that the information from the time suggests that Miss C would most likely be able to make her repayments to the Card B and the limit increase, I don't think that it was unfair for it to lend in these instances.

Bearing in mind all of this, I'm satisfied that it wasn't unfair for Capital One to offer Miss C a credit card with a limit of £500 in July 2022, or increase her credit limit to £750 in July 2024 and therefore there was no unfairness created at these stages either.

Overall, and based on the available evidence I don't find that Miss C's relationship with Capital One was unfair. I've not been persuaded that Capital One created unfairness in its relationship with Miss C by irresponsibly lending to her whether when initially agreeing to provide her with credit cards, or in respect of the limit increases. I don't find Capital One treated Miss C unfairly in any other way either based on what I've seen.

As this is the case and having carefully considered everything, while I can understand Miss C's sentiments and sympathise with what has undoubtedly been a very difficult time for her, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Miss C. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Miss C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 18 August 2025.

Jeshen Narayanan
Ombudsman