

The complaint

Miss S complains that Capital One (Europe) plc irresponsibly lent to her, they defaulted her accounts, and they wouldn't write off her outstanding balances.

Miss S is represented by her mother in bringing this complaint. But for ease of reading, I'll refer to any submission and comments she has made as being made by Miss S herself.

What happened

Miss S was approved for a Capital One credit card in August 2022 (which I will refer to this card as A in this decision). The initial credit limit on A was £200. Capital One increased the credit limit on A to £800 in October 2022. The credit limit on A was increased to £1,800 in July 2023.

Miss S was approved for another Capital One credit card (which I will refer to as B in this decision) in September 2023. The credit limit was £500. Miss S complains that both of these accounts were irresponsibly lent to her as she was in a debt relief order, and she says Capital One had previously wrote off an outstanding balance on an account she had with them. Miss S says that she was having breathing space on the accounts, but Capital One defaulted the accounts during the breathing space.

Miss S says that she requested Capital One to write off her outstanding balances on both of the accounts, but they didn't do so. She says that Capital One didn't consider her disabilities before approving the credit for her. Miss S made a complaint to Capital One.

Capital One did not uphold Miss S' complaint. They said the lending decisions were fair, reasonable and affordable for Miss S. Capital One said that breathing space does not stop an account from defaulting. They said they weren't able to agree her write off requests. Miss S brought her complaint to our service.

Our investigator did not uphold Miss S' complaint. She said that Capital One made fair lending decisions, they weren't aware of Miss S' disabilities prior to the lending, and Capital One were able to default the accounts during a breathing space.

Miss S asked for an ombudsman to review her complaint. In summary she said she had a debt relief order on her credit file at the time of the lending decisions. She says this included a debt Capital One had previously written off, so she didn't think Capital One acted responsibly by opening two further credit cards for her.

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.

Firstly, I'm aware that I've only summarised Miss S' complaint points. And I'm not going to respond to every single point made by her. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's

something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

I'd like to thank Miss S for her telling us about her health and her personal circumstances around the time she applied for the Capital One credit cards, including the medical evidence she's sent us and the debt relief order she's told us about. I won't document what she's told us in detail in this decision to protect her identity, however, I can assure Miss S I've read everything she's told us.

I've reviewed Capital One's system notes and I couldn't see any notes from around the time Miss S applied for either account that she informed them about her health or financial situation, or shortly after the account had been approved. So I can't fairly say that Capital One would or should have been aware of the vulnerabilities Miss S has told us about.

I'd like to explain to Miss S that it is not within this service's remit to tell a business what their write off criteria should be, or to make this public as this would be a commercial decision for Capital One to make. It would be the role of the regulator – the Financial Conduct Authority, who have the power to instruct Capital One to make changes to their policies and procedures if necessary.

Before agreeing to approve or increase the credit available to Miss S, 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.

Acceptance for A

I've looked at what checks Capital One said they did when initially approving Miss S' credit card for A. I'll address the subsequent lending decisions later on. Capital One said they looked at information provided by Credit Reference Agencies (CRA's) and information that Miss S had provided before approving her application.

The information showed that Miss S had declared a gross annual income of £26,000. The data from a CRA shows that Miss S had previously defaulted on credit agreements, with the last default showing as being registered around March 2019. It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. So I've looked at what Capital One's other checks showed to see if they made a fair lending decision here.

I've considered what Miss S has said about her debt relief order and that Capital One had previously written off debt for her. But just because somebody has entered a debt relief order previously, I would expect a business to take into account a consumer's current financial circumstances prior to approving credit for them. I say this because Miss S' financial circumstances could have improved since she had her debt relief order, so it could be seen as discriminatory for Capital One to hold something historic against Miss S – even if Capital One had previously written off an account balance for her.

Capital One's information that they forwarded to our service shows that Miss S' debt relief order had been completed on 31 January 2020. So based on the information they received, this would have been completed over 12 months prior to this lending decision.

Miss S had active accounts showing from the CRA's, and the total amount of unsecured debt being reported by one of the CRA's was £1,640. The data showed that Miss S had been in arrears on one account in the 12 months prior to this lending decision. But it appears to have been an oversight as the account was brought up to date in the following month. The data showed Miss S didn't have any active accounts in arrears at the time of the checks.

Capital One have said they used Office for National Statistics (ONS) data to help calculate Miss S' affordability. This is an industry standard way of calculating affordability. The CRA also reported how much Miss S was paying on a monthly basis for her fixed payments on her unsecured debt. Miss S also told Capital One her housing costs were £750 a month. So Capital One would have been able to incorporate this into their affordability assessment.

The data suggests that sustainable repayments would be affordable for Miss S on a £200 credit limit. So I'm persuaded that Capital One's checks were proportionate here, and they made a fair lending decision.

October 2022 credit limit increase on A - £200 to £800

Miss S had no new defaults being reported by the CRA's since A had been opened and she wasn't in any arrears on her active accounts at the time the checks were completed for this lending decision.

Capital One completed another affordability assessment which suggested the credit limit increase to £800 would be affordable and sustainable for Miss S. Capital One would also be able to see how Miss S managed A since A had been opened.

Miss S incurred no overlimit or late fees since the account had been opened. Miss S had made repayments which were substantially larger than her minimum requested repayment which I wouldn't expect her to be able to make if she was in financial difficulty prior to the credit limit increase, with her lowest repayment being £70.70 and her highest repayment being £166.35. This could suggest Miss S had the affordability to be able to sustain repayments for a £800 credit limit.

The £800 credit limit would equate to around 3% of Miss S' originally declared gross annual income. So I'm persuaded that the checks Capital One completed were proportionate for this lending decision. I'm persuaded that Capital One made a fair lending decision to increase the credit limit on A to £800.

July 2023 credit limit increase on A - £800 to £1,800

Again, Miss S had no new defaults registered since the last lending decision. Miss S had no active accounts which were in arrears prior to this lending decision, and no active accounts which had been in arrears for the previous six months prior to the checks for this lending decision.

Although Miss S often paid a lot higher than her minimum requested repayment on A, she sometimes re-used the credit she had paid off. It had been almost a year since A was opened, but with the credit limit increasing to £1,800. I'm persuaded that Capital One should have completed further checks to ensure the credit limit increase was affordable and sustainable for Miss S.

There's no set way of how Capital One should have made further proportionate checks. One of the things they could have done was to contact Miss S to ask her what her current income/outgoings were. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss S has provided her bank statements leading up to this lending decision. Her account appears to be well run. Her housing costs still appear to be £750 a month, and she doesn't go overdrawn for the three statements I've viewed. There are no unpaid direct debits and no unpaid items. Her income is consistent with what she declared on her application for A. So if Capital One would have completed further checks, then I'm persuaded they still would have increased the lending to £1,800, and I'm persuaded that they made a fair lending decision here.

Acceptance for B

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

The information showed that Miss S had again declared a gross annual income of £26,000. The data from a CRA shows that Miss S had no new defaulted accounts since 2019. Although Miss S previously had a debt relief order, Capital One would have been able to see that it appears her financial circumstances had improved since then. I say this as she had been making higher repayments than what she needed to pay on A, and without incurring any overlimit or late fees.

Miss S was also not in any arrears at the time of the lending checks for B on her active accounts. Her outstanding balances as being reported on her active accounts with one CRA shows as being £2,152. While I note this is higher than when she applied for A, this figure does include her outstanding balance for A. So this account was also considered prior to B being approved.

Capital One have said they used ONS data to help calculate Miss S's affordability again. The CRA also reported how much Miss S was paying on a monthly basis for her fixed payments on her unsecured debt. Miss S also told Capital One her housing costs were £750 a month. So Capital One would have been able to incorporate this into their affordability assessment.

The data suggests that sustainable repayments would be affordable for Miss S on a £500 credit limit. Even if the £500 was added to her existing active debt of £2,152, this would have equated to an active debt to gross annual income ratio of around 10.2%, so it wouldn't appear that Miss S was overindebted. So I'm persuaded that Capital One's checks were proportionate here, and they made a fair lending decision.

I've considered what Miss S has said about Capital One defaulting her accounts while she was having breathing space. But breathing space would not prevent a default from being registered. Breathing space allows collections activities such as phone calls to Miss S to be paused, along with interest/fees/charges to be paused, but Capital One would still have a regulatory duty to accurately report account activity to the CRA's – including any defaulted accounts. This applies even if a complaint is open at the time a default is registered. So I can't fairly say Capital One acted unreasonably here.

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 S 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 S to accept or reject my decision before 5 August 2025.

Gregory Sloanes
Ombudsman