

The complaint

Miss A complains that Capital One (Europe) plc (“Capital One”) irresponsibly lent to her.

What happened

Capital One provided Miss A with a credit card in December 2019 with a limit of £200. I understand the credit limit wasn’t increased.

Miss A complained to Capital One because she felt the lending was unaffordable and irresponsible. In summary, she said she had multiple credit facilities as well as a County Court Judgment (“CCJ”), defaults and missed payments showing on her credit report. She also said her income varied and that she was constantly borrowing from friends and other lenders, as well as being dependent on payday loans and credit cards for everyday expenses. Miss A said she had a gambling addiction at the time, and this meant she was experiencing severe financial and emotional distress. She feels Capital One should have asked her about her expenses in more detail and had it requested her bank statements, it would have seen the reality of her situation. Miss A said Capital One should have realised she was having difficulty because of the number of late payment charges added to her account.

In its final response, Capital One didn’t uphold Miss A’s complaint as it said its lending was fair. Miss A didn’t agree and therefore referred her complaint to our service.

Our Investigator didn’t uphold Miss A’s complaint. In summary, they said the checks Capital One carried out were proportionate and the lending fair. And that they didn’t think Capital One had acted unfairly in any other way.

Miss A didn’t agree. In summary, she reiterated that at the time of lending she had a gambling addiction which caused her severe financial and emotional distress. She said she was in financial difficulty, she was overly indebted, and she had a history of missed payments, defaults and cash advances, as well as active arrangements with debt collectors. Ultimately, Miss A said this lending was unaffordable and being provided with this credit made her situation worse.

Because the parties couldn’t agree, the matter has been passed to me to decide.

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.

Having carefully considered everything provided, I don’t uphold Miss A’s complaint – and I’ll explain why.

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 A’s complaint.

Capital One needed to make sure it didn't lend irresponsibly. It was required to carry out proportionate checks to understand whether Miss A could afford to repay before providing the lending. This means Capital One needed to take reasonable and proportionate steps to check that making the repayments wouldn't cause Miss A undue difficulty or have adverse consequences.

There aren't set rules about what a proportionate check should include and a proportionate check could look different for different applications.

But we might think the lender needed to do more if, for example, a borrower's income was low, the amount lent was high, or if a borrower would be indebted for a lengthy period of time. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show it didn't continue to lend to its customer irresponsibly.

There may also be other factors which could influence how detailed a proportionate check should be, for example, any borrower vulnerability or foreseeable changes in future circumstances.

When Miss A was provided with the credit card, Capital One was required to understand whether she could sustainably repay the full amount it was prepared to lend.

I can see Capital One asked Miss A about her income and her housing costs. It also carried out a credit check to understand her current credit commitments and how she'd been managing her credit.

Capital One carried out a credit check using two Credit Reference Agencies ("CRAs"). Different information was revealed on each of these, so I've compared both to understand what the overall checks showed. Miss A had revolving credit balances (for example overdrafts or credit cards) of £1,585 and balances of £753 in unsecured loans. The checks also showed Miss A may have had up to three defaults – given the crossover of the two reports, it isn't entirely clear whether there are three distinct defaults or whether some of the information has been repeated. However, the most recent default shows as having happened just over a year before this lending.

Miss A declared her income was £29,000 per year, her housing costs were £200 per month and that she lived with parents.

To calculate affordability, Capital One said it deducted Miss A's housing costs and credit commitments from her monthly income. And then determined whether there was enough income left to cover non-discretionary spending and payments for this new lending. Capital One says it used statistical data to help it understand whether Miss A would have enough money for living costs. And, it said in this instance, Miss A had enough disposable income to show the lending would be affordable.

I recognise the credit check Capital One carried out did reveal Miss A had had some issues with making payments towards her credit. I can't see the CCJ on Capital One's checks so I'm not persuaded it knew about it but in any event, I can see that, along with the defaults, it happened some time before this lending. And, given Miss A had been managing her payments well on her existing credit in the few months leading up to this lending and she didn't seem to be overly indebted, I don't think the historical issues she'd had appear to reflect her current financial situation. There was also evidence on Miss A's credit check that she'd successfully managed and settled previous accounts too.

Miss A has provided her own credit reports and I appreciate those may show more adverse information compared to what Capital One's checks showed. But there are three CRAs, not all lending is reported to all three and lenders aren't obliged to check all three before lending. I can see Capital One checked two of the CRAs before lending and having seen those checks, I think it was entitled to rely on the information it saw.

I'm sorry to hear about Miss A's personal situation and what she's been dealing with – and I want to thank her for sharing this with us. I recognise the reality of Miss A's situation was likely very different to what Capital One's checks showed. But considering the modest limit provided and the relatively low monthly payments this lending would attract, in the circumstances of this case, I don't think it would have been proportionate for Capital One to have requested Miss A's bank statements. So, I don't think Capital One knew or ought to have known about Miss A's gambling - or that she may have been in any serious financial difficulty.

On the contrary, I'm satisfied that it was reasonable for Capital One to rely on estimates for Miss A's outgoings after deducting her housing and credit commitments from her income. I say this because taking into account Miss A's income, she didn't appear overly indebted, she'd been managing her existing credit well recently and the limit Capital One provided was relatively modest. And I'm satisfied Capital One's affordability checks suggested Miss A did likely have enough disposable income to make sustainable repayments towards this lending.

Again, I appreciate Miss A has explained that the reality of what happened is that, despite our service considering this a relatively modest limit, being provided with this credit only served to make her financial situation and gambling addiction worse. But given what I've said, I don't think this would have been foreseeable to Capital One at the time of lending.

Therefore, I find that Capital One's checks were proportionate and the lending fair – and I don't think Capital One lent to Miss A irresponsibly.

Has Capital One acted unfairly in any other way?

I've considered whether Capital One acted unfairly in any other way but I agree with our Investigator that it hasn't. I appreciate Miss A says Capital One should have realised she was having difficulties because of the number of late payment charges on her account. I can see Miss A does miss or make late payments on her account and also exceeded her credit limit on several occasions. But equally, she rarely makes the minimum payment, often making large payments towards her balance. And from what I've seen, she always brings her account up to date the following month. I can see from Capital One's account notes that it did send her information about financial difficulty but given what I've said, I don't think it ought to have done more here.

Finally, I've also considered 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 Miss A 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 don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 31 December 2025.

Sophie Kyprianou
Ombudsman