

## **The complaint**

Miss V complains that Capital One (Europe) Plc (Capital One) acted irresponsibly by agreeing to lend to her.

## **What happened**

Miss V applied for three revolving credit facilities (credit cards) with Capital One, around 2014 (\*1004), Sept 2021 (\*0062) and June 2022 (\*8997). Miss V's applications were successful and Capital One issued her with a credit card for each of the accounts with credit limits of £500, £500 and £400 respectively. Miss V complained to Capital One saying they hadn't properly checked whether she could afford to sustain the repayments, as if they had they would have seen she'd a history of financial struggle. And by adding to her financial burden they'd caused her financial loss and distress.

Capital One said Miss V had brought her complaint for credit card \*0062 too late to be considered. For the other two credit cards they said their checks had been reasonable and proportionate. And based on these checks their lending decision(s) was fair.

Miss V wasn't happy with Capital One's response and referred her complaint to us.

Our investigator said we couldn't consider Miss V's complaint about card \*1004 as it had been brought too late and so was out of our jurisdiction to consider. But said Capital One's checks for credit card \*0062 weren't sufficient as there was evidence of financial vulnerability. But after looking at further evidence found that the lending had been fair as Miss V should have been able to sustain the repayments. For credit card \*8997 they said Capital One's checks were reasonable and proportionate and based on these they'd made a fair lending decision.

Miss V didn't agree she reiterated that had proportionate checks been done Capital One ought to have seen she was overly indebted and struggling to meet her credit commitments without relying on high-cost borrowing. She asked for an ombudsman 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.

I appreciate my decision will disappoint Miss V but having done so I'm not upholding her complaint. I'll explain why.

Firstly, Miss V has accepted that her complaint about her credit card \*1004 doesn't fall within our jurisdiction so I won't comment further about this.

I've considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say that before Capital One offered the credit facility they needed to complete reasonable and proportionate checks to be satisfied Miss V would be able to repay the debt in a sustainable way.

There isn't a set list of checks a lender must do, but in deciding what was proportionate Capital One needed to consider things such as (but not limited to): the amount of credit, the size of any regular payments (taking into consideration the rules and guidance in CONC relating to assumptions concerning revolving credit), the cost of credit and the consumer's circumstances.

What's important to note is that Miss V was provided with a revolving credit facility rather than a loan. As it was revolving credit there's no set amount that needed to be repaid each month, but CONC requires a lender to assume when carrying out their assessment that the entire credit limit is drawn down at the earliest opportunity and repaid in equal instalments over a reasonable period. So, as Capital One were looking to provide a credit limit of £500 to Miss V, I think they could they have reasonably assumed Miss V would need to be able to pay around £25 each month to clear any outstanding balance within a reasonable period.

CONC says a lender needs to take reasonable steps to estimate a consumer's income and non-discretionary expenditure. Also, that they must base their creditworthiness assessment on sufficient information that they're aware at the time the assessment is carried out. And obtained, where appropriate, from the consumer and where necessary a credit reference agency (CRA). CONC says a lender shouldn't generally rely on the consumers stated income but should seek validation from an independent source such as a CRA or third party. CONC also allows for the use of statistical data in determining a consumer's non-discretionary outgoings. I've looked at what checks Capital One said they did when initially approving Miss V's application.

They said they looked at information provided by Miss V's application about her salary and housing costs, carried out checks with CRA's, and considered non-discretionary spending for items such as food, clothing and utilities using statistical data.

The information showed that Miss V declared a gross annual salary of £50,000 and was a private tenant in full time employment. Miss V declared housing costs of £530. The CRA check showed she'd a revolving credit balance of £1,476, and other unsecured borrowing of £867. And given the relatively low amount Miss V would be required to repay each month decided that Miss V, from the information gathered from their checks, had sufficient disposable income.

I can see from the CRA checks that Miss V had several defaults registered on her credit report. The latest one having ended in November 2020. 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 – it doesn't automatically mean that a lender won't offer borrowing. Here, Capital One considered the information that Miss V had on her credit file and still made a decision to lend. But I can also see that Miss V was in arrears with one of her utility accounts. So added to her previous financial struggles I think Capital One should have checked into this further with Miss V.

This doesn't automatically mean they shouldn't have lent to Miss V only that they should have done further checks. I wouldn't generally expect a lender to ask for bank statements in these circumstances especially given the type and amount being borrowed was relatively low as this would be disproportionate. But for our purposes they provide a good indicator of what further checks might have shown.

Miss V has provided her bank statements for the three months prior to the lending. This shows her average monthly income was around £2,894. She was meeting her credit commitments with no evidence of returned direct debits or overdraft usage. And she'd a balance at the end of each month that showed she should have been able to sustain her repayments. I note Miss V's comments about being reliant on multiple payday loans and

high-cost credit products to meet her credit commitments. But I haven't seen sufficient evidence from her credit report or bank statements around the time of the lending that show this.

So had Capital One checked further I'm satisfied they would have still lent to Miss V, as she'd a regular salaried income, was meeting her credit commitments without any evidence of returned direct debits or overdraft usage. And should have had sufficient disposable income to sustain her repayments.

Whilst she'd defaults registered these had been some time before the new lending and so would be considered historic. And it would be unfair to prevent further borrowing where a consumer can show their circumstances had improved and they were actively managing their credit commitments. I can see Miss V had some gambling transactions evident on her bank statement, but I haven't seen any signs that this activity was of a compulsive nature. So, I'm satisfied Capital One made a fair lending decision.

Around June 2022 Miss V applied for and was accepted for another revolving credit facility with Capital One setting a credit limit of £400. This would mean Capital One needed to check whether Miss V could sustain a monthly repayment of around £20 each month to clear any outstanding balance within a reasonable period.

Capital One did the same checks using application, CRA and statistical data to determine Miss V's affordability. They also had the additional information as to how Miss V was managing her existing credit facility with them.

From these checks, Miss V declared an annual salary of £60,000 and housing costs of £530. No further defaults were registered on Miss V's credit history, and all her active accounts were up to date with no arrears.

I can see from Capital One's records that Miss V regularly paid more than the minimum amount required. While the ability to repay credit without issue doesn't mean that there isn't financial distress. A good repayment history is a fairly reliable indicator that an individual can manage debt responsibly.

So, I'm satisfied Capital One took reasonable steps to assess Miss V's income and non-discretionary expenditure. I think the checks Capital One did were reasonable and proportionate for the type and amount of credit they were providing. And I don't think that there was anything immediately obvious in the information that they had, including Miss V's existing credit, which meant they shouldn't rely on it. So, I don't think Capital One needed to have asked Miss V to provide further evidence in support of her income and non-discretionary expenditure before providing her with a credit limit in this instance. And based on the evidence provided by these checks I'm satisfied Capital One made a fair lending decision as Miss V should have had sufficient disposable income to sustain the repayments..

I've also considered whether Capital One acted unfairly or unreasonably in some other way given what Miss V has complained about, including whether their relationship with her might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. But for the reasons I've already given, I don't think Capital One lent irresponsibly to Miss V or otherwise treated her unfairly. I haven't seen anything to suggest that s.140A or anything else would, given the facts of this complaint, lead to a different outcome here.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss V to accept or reject my decision before 17 February 2026.

Anne Scarr  
**Ombudsman**