

The complaint

Mr M complains that a credit card account with Capital One (Europe) plc and four credit limit increases were unaffordable for him and that there was an unfair lending relationship. He's being represented in his complaint by a claims management company.

What happened

I issued a provisional decision on this complaint last month in which I described what had happened as follows:

“Mr M applied to Capital One for a credit card account in December 2020 and an account was opened for him with a credit limit of £300. The credit limit was increased to £550 in April 2021, to £1,550 in January 2022, to £2,000 in October 2022 and to £2,750 in December 2023. Mr M's representative complained to Capital One in October 2024 and said that it had failed to take reasonable steps to assess Mr M's ability to make repayments in a sustainable manner. It also said that Capital One had entered into an unfair lending relationship with Mr M and had failed to comply with section 140A of the Consumer Credit Act 1974.

Capital One described the checks that it had made and said that it believed that Mr M should have had enough remaining income available to afford repayments on an account with a credit limit of £300. It said it had done another detailed review of its decisions to extend the credit limit in April 2021 and January 2022 and believed that Mr M should've had enough remaining income available to afford repayments for the level of credit it offered within a reasonable period. It said that it was rejecting the complaint about the October 2022 and December 2023 credit limit increases because there was insufficient evidence to support the investigation and it had requested bank statements or payslips from Mr M for the three months leading up to those dates but didn't receive the relevant documents.

The complaint was referred to this service and was looked at by one of this service's investigators who recommended that it should be upheld. She then looked at the complaint again and, having considered everything, didn't recommend that it should be upheld. Mr M hasn't accepted the investigator's recommendation and his representative has requested that the complaint be considered by an ombudsman”.

Provisional decision

I set out my provisional findings in that provisional decision. I said:

“Mr M applied to Capital One for a credit card account in December 2020 and declared that he was employed with an annual salary of £20,200. It says that it uses data from credit reference agencies or other authorised third parties, information provided by the customer on application, non-customer-specific data from, for example, the Office for National Statistics, and data it holds internally to complete a creditworthiness assessment before making any decision to lend.

It says that, in response to the complaint, it had reviewed its decision to lend to check that it was fair, reasonable and affordable for Mr M. It says that it considered his other debt commitments that were recorded on his credit file at that time, including £2,553 of outstanding credit card debt, unsecured loans and outstanding overdrafts, Mr M had declared that he had no housing costs and it estimated his other non-discretionary expenditure based on Office for National Statistics’ data.

It says that Mr M demonstrated a historic pattern of payday loan usage but no new payday loans, or any other credit facility, was opened in the eleven months prior to lending, and there were two defaults on his credit file but they were more than 12 months prior to its lending decision. It says that it considered that a credit card account with a limit of £300 was affordable for Mr M at that time and that the credit limit offered was reflective of its consideration of historic account management that may be indicative of future risk.

Capital One was required to conduct reasonable and proportionate checks to ensure that any credit to be provided to Mr M was sustainably affordable for him before opening a credit card account. Capital One has described the checks that it made but I’ve seen no evidence to show that it obtained any confirmation of the income that Mr M had declared. I consider that reasonable and proportionate checks would have included obtaining evidence of Mr M’s income, so I’m not persuaded that Capital One has shown that it made reasonable and proportionate checks.

If Capital One had obtained evidence of Mr M’s income, I consider that it would have been fair and reasonable for it to have concluded, on the basis of the information that it would have received, that a credit card account with a credit limit of £300 was sustainably affordable for him. Capital One took into account Mr M’s payday loan usage and two defaults, and I don’t consider that it acted incorrectly in providing Mr M with a credit card account with a limit of £300 at that time.

Capital One offered to increase Mr M’s credit limit to £550 in April 2021. It says that before it offers any credit limit extensions to any of its customers, it does affordability assessments to make sure that it’s considered the customer’s individual circumstances and ability to repay the amount borrowed within a reasonable period. That was only four months after the account had been opened, Mr M’s account had been well managed and he accepted its offer to increase his credit limit. I consider that it was fair and reasonable for Capital One to conclude that a credit limit increase of £250 to £550 was sustainably affordable for Mr M at that time and I don’t consider that it acted incorrectly in increasing his credit limit.

Capital One offered to increase Mr M’s credit limit to £1,550 in January 2022. Mr M’s account had continued to be well managed and he accepted its offer to increase his credit limit. I consider that reasonable and proportionate checks at that time would have required Capital One to have obtained up to date information about Mr M’s

financial situation, but I can't see that it did so. Mr M has provided copies of his bank statements for October to December 2021. I don't consider that Capital One was required to review Mr M's bank statements as it could have obtained information about his financial situation in other ways, but they are a good source of information about his financial situation.

Those statements show that Mr M's average monthly income was £1,847.63. If Mr M fully utilised his credit limit of £1,550, the minimum monthly payment would be about £80 each month. If Capital One had obtained evidence of Mr M's income, I consider that it would have been reasonable for it to have concluded that a credit limit increase of £1,000 to £1,550 was sustainably affordable for him at that time. I don't consider that it acted incorrectly by increasing his credit limit at that time.

Capital One offered to increase Mr M's credit limit to £2,000 in October 2022 and to £2,750 in December 2023. In response to the complaint that was made to it, it said that it was rejecting the complaint about those credit limit increases because there was insufficient evidence to support the investigation and it had requested bank statements or payslips from Mr M for the three months leading up to those dates but didn't receive the relevant documents. I don't consider that Capital One has provided evidence to show that the checks that it made before those credit limit increases were reasonable and proportionate.

I've looked at Mr M's bank statements for the period from August to September 2022. They show that Mr's M average monthly income was £2,097 and that his average monthly expenditure, excluding payments made to and received from his partner, was about £1,254. Mr M says that his partner has better credit than him so she pays for most of their essentials, including the mortgage and car, and that he transfers half of the cost of them to her account. I don't consider that the payments made to and received from his partner that are shown on those statements are consistent with being his share of essential expenditure, so I don't consider that those payments should be included in Mr M's expenditure.

Mr M's account continued to be well managed and I consider it to be more likely than not that, if Capital One had made reasonable and proportionate checks before the October 2022 credit limit increase, it would have concluded that it was sustainably affordable for Mr M. Mr M accepted the credit limit increase that was offered to him and I don't consider that Capital One acted incorrectly by increasing his credit limit in October 2022

I've also looked at Mr M's banks statement for the period from September to November 2023. They show that Mr's M average monthly income was £2,169 and that his average monthly expenditure, excluding payments made to and received from his partner, was about £1,610.14. The statements show that Mr M made a payment to his partner at the end of each month, which was £600 in September 2023 and £550 in October and November 2023. I consider that those payments should be included in Mr M's expenditure and, had they been included, I consider that his average monthly expenditure was £2,176.81. That's more than Mr M's average monthly income, so I consider that, if Capital One had made reasonable and proportionate checks before that credit limit increase, it would have concluded that it wasn't sustainably affordable for Mr M and shouldn't have increased his credit limit to £2,750.

As I don't consider that Capital One should have increased Mr M's credit limit to £2,750 in December 2023, I consider that it's not fair or reasonable for it to have charged Mr M any interest or fees on the credit that it provided to him that was in

excess of £2,000 after the date of the December 2023 credit limit increase, but I consider that it's fair and reasonable that he should pay back to Capital One the amount of the credit that he has used.

I find that it would be fair and reasonable in these circumstances for Capital One to rework Mr M's credit card account to remove all interest, fees and other charges that it has applied to the account on any credit in excess of £2,000 after the date of the December 2023 credit limit increase. If the reworking results in a credit balance, it should refund the credit balance to Mr M, with interest on any credit balances that there would have been on the account at an annual rate of 8% simple. Capital One should also ensure that any adverse information about the credit card account that it's reported to the credit reference agencies for the period after the date of the December 2023 credit limit increase is removed from Mr M's credit file. HM Revenue & Customs requires Capital One to deduct tax from any interest to be paid to Mr M. Capital One must give Mr M a certificate showing how much tax it's deducted if he asks it for one.

If the reworking results in an outstanding balance that exceeds £2,000, it should agree an affordable repayment arrangement with Mr M for the amount in excess of £2,000 and, when he's cleared that balance, it should also ensure that any adverse information about the credit card account that it's reported to the credit reference agencies for the period after the date of the December 2023 credit limit increase is removed from Mr M's credit file.

I've also considered whether Capital One acted unfairly or unreasonably in some other way, including whether its relationship with Mr M might have been unfair under section 140A. Having done so, I've not seen anything else that makes me think that that was likely to have been the case, other than in relation to the December 2023 credit limit increase. As I'm upholding Mr M's complaint about that credit limit increase for the reasons given above, I don't consider that I need to make any further finding on that. I consider that the actions that I've described result in fair compensation for Mr M in the circumstances of this complaint and I'm not persuaded that it would be fair or reasonable for me to require Capital One to take any actions, other than as described above in response to Mr M's complaint".

Subject to any further comments or evidence that I received from Mr M, his representative and Capital One, my provisional decision was that I intended to uphold this complaint. Mr M's representative says that my provisional decision has been accepted but Capital One hasn't responded to it.

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.

As Mr M's representative says that my provisional decision has been accepted and Capital One hasn't responded to it, I see no reason to change the findings that I set out in my provisional decision.

Putting things right

I find that it would be fair and reasonable in these circumstances for Capital One to rework Mr M's credit card account to remove all interest, fees and other charges that it has applied to the account on any credit in excess of £2,000 after the date of the December 2023 credit limit increase. If the reworking results in a credit balance, it should refund the credit balance

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If the reworking results in an outstanding balance that exceeds £2,000, it should agree an affordable repayment arrangement with Mr M for the amount in excess of £2,000 and, when he's cleared that balance, it should also ensure that any adverse information about the credit card account that it's reported to the credit reference agencies for the period after the date of the December 2023 credit limit increase is removed from Mr M's credit file.

My final decision

My decision is that I uphold Mr M's complaint and order Capital One (Europe) plc to take the actions described above.:

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 January 2026.

Jarrold Hastings
Ombudsman