

The complaint

Mr K complains that Capital One (Europe) plc lent irresponsibly when it increased his the credit limit on a credit card and later approved a second credit card in his name.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Mr K had an existing credit card with Capital One that had a credit limit of £1,000. In February 2017 Capital One says it reviewed Mr K's credit file and account history and took the decision to increase the credit limit to £1,250. Capital One says Mr K's credit file showed he owed around £750 to other credit card providers and £1,100 in loans. Capital One says the credit limit increase was approved in line with its lending criteria.

In June 2019 Mr K applied for a second credit card with Capital One. In his application, Mr K said he was employed full time with an income of around £40,000 a year. Mr K also advised he was a homeowner with a mortgage. Capital One carried out a credit search and found loans for around £12,000 and credit card debts of around £5,300. Capital One says it used national statistics to obtain regular outgoings for Mr K and applied its lending criteria. Capital One approved a second credit card, this time with a credit limit of £500.

Mr K's credit cards later fell into arrears and one was closed at default in the summer of 2022. The other credit card was subject to a payment plan at the time Mr K's complaint was submitted to this service.

Mr K went on to raise a complaint with Capital One and said it had lent irresponsibly. Capital One issued a final response but didn't agree. Capital One said it had carried out the relevant checks before approving Mr K's credit limit increase in February 2017 and application in June 2019 and didn't agree it had lent irresponsibly.

An investigator at this service looked at Mr K's complaint. They thought Capital One had carried out reasonable and proportionate checks before approving the credit limit increase and credit card application and didn't uphold Mr K's complaint. Mr K asked to appeal, so his complaint has been passed to me to make a decision.

What I've provisionally 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.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website. I've had this approach in mind when considering M K's complaint.

Before agreeing to lend, Capital One needed to complete reasonable and proportionate checks to ensure that Mr K could afford to repay what was being lent. These checks needed to be borrower focussed and could take into account things such as the amount of credit, the

total sum repayable and the consumers financial circumstances. There's no set list of checks a lender has to do. But lenders are required to have regard to the factors I've mentioned above when deciding what's reasonable and proportionate.

I've looked at the credit limit increase from £1,000 to £1,250 that was approved in February 2017. Capital One has provided evidence to show it viewed Mr K's credit file and found he owed around £750 in other credit card debt plus £1,100 in loans. Capital One also noted Mr K had a mortgage and factored the cost into its lending decision. Capital One says it used an income of around £43,000 and used regular outgoings based on national statistics it obtained.

Whilst I can see Capital One took a range of factors into account, I think there were signs Mr K may've been having trouble making ends meet. Mr K's credit file shows two missed mortgage payments in the year before the credit limit increase was approved. In addition, Mr K had exceeded the existing credit limit for his credit card three times in the preceding 12 months. In my view, they should've been trigger points for Capital One to consider carrying out more comprehensive checks before approving the credit limit increase to £1,250.

When Mr K applied for a second credit card with Capital One it carried out another credit search and applied its lending criteria to the information he provided. Capital One says Mr K declared an income of £40,000 in this application and confirmed he was a homeowner. The credit search showed Mr K's unsecured borrowing had increased to around £5,300 in credit card debt and £12,000 for loans.

In my view, there was a sharp increase to the level of unsecured borrowing between February 2017, when Mr K's credit limit was increased, and June 2019, when the second credit card application was assessed. I think the increase in unsecured borrowing of this nature should've caused Capital One to consider carrying out better checks before deciding whether to approve Mr K's credit card.

There are a range of options available to businesses when seeking to carry out more comprehensive checks. Mr K provided a copy of his bank statements for the periods before his credit limit was increased and the second credit card application was approved. I'll look at each in turn.

Whilst I think Capital One should've carried out more comprehensive checks before increasing the first credit card's credit limit to £1,250, I haven't been persuaded it lent irresponsibly. Mr K's bank statements, which are in joint names with his wife, show regular outgoings were being met based on the income received into the account. And whilst Mr K's income varied somewhat each week, it was broadly in line with the figure Capital One used in its lending decision. I haven't seen anything in Mr K's bank statements that would've caused Capital One to decline to proceed with the credit limit increase. I'm sorry to disappoint Mr K but I haven't been persuaded that Capital One lent irresponsibly when it increased his credit limit in February 2017.

By the time Mr K applied for a second credit card in June 2019 it appears his circumstances had changed. As I've said above, Mr K's unsecured debt increased substantially by this point. In February 2017 Mr K owed roughly £1,850 in total unsecured borrowing. But in June 2019 that figure had increased to around £17,000. Mr K's bank statements for the period show his monthly costs for servicing debts had increased substantially. In addition, Mr K's bank statements show evidence of regular gambling that totalled around £300 a month in the period before his application was approved. I also note Mr K's bank statements showed he was borrowing from other businesses shortly before he applied to Capital One for a second credit card.

If Capital One had carried out better checks in June 2019, like asking Mr K for his bank statements, I think it would've taken the decision to decline his second credit card application. In my view, the bank statements show Mr K was unlikely to be in a position to support further borrowing at that time. As a result, I've reached a different view to the investigator and intend to uphold Mr K's complaint in part and tell Capital One to refund all interest, fees and charges applied to the second credit card from inception.

I invited both parties to respond with any additional comments or information they wanted me to consider before I made my final decision. Mr K responded and confirmed he's willing to accept.

Capital One didn't accept and said it didn't agree that the increase in unsecured debt between the first credit card's credit limit increase in February 2017 and his application for the second credit card in June 2019 was sufficient to cause it to carry out more comprehensive checks. Capital One added that its calculations showed Mr K had a disposable income of around £1,900 a month after covering his unsecured debt. Capital One didn't agree it had lent irresponsibly when it approved Mr K's second credit card.

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've considered Capital One's response but haven't been persuaded to change my view of how to fairly resolve Mr K's complaint. Capital One says the increase in Mr K's debt didn't require it to ask for more information and that it had reached a good estimate based on the data it had available. But I remain of the view an increase in unsecured debt from around £1,850 to around £17,000 in a period of around two and a half years showed Mr K was likely borrowing at an unsustainable rate.

Whilst I note Capital One's claim Mr K had around £1,900 disposable income available during the second application, when I looked at his bank statements I didn't find that to be the case. As I said in the provisional decision, I think more comprehensive checks would've shown Capital One Mr K wasn't in a position to sustainably repay further borrowing and would've led to his application being declined. I still think that's the case.

As I haven't been persuaded to change my mind, I'm going to proceed in line with my provisional decision and uphold Mr K's complaint.

My final decision

My decision is that I uphold Mr K's complaint and direct Capital One (Europe) plc to settle as follows:

- Rework Mr K's current balance for the second credit card to ensure that all interest, fees and charges added from the outset are removed

AND

- If an outstanding balance remains on Mr K's account once these adjustments have been made, Capital One should contact him to arrange a suitable payment plan. Mr K is encouraged to get in contact with and cooperate with Capital One to reach a suitable and affordable payment plan. Once the balance is repaid, Capital One should delete all adverse information it has recorded in relation to the second credit card from his credit file

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr K along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Capital One should remove any and all adverse information it has recorded from Mr K's credit file in relation to the second credit card

† HM Revenue & Customs requires Capital One to take off tax from this interest. Capital One must give Mr K a certificate showing how much tax it has taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 31 January 2024.

Marco Manente
Ombudsman