

## **The complaint**

Mr H complains that Capital One (Europe) plc lent irresponsibly when it approved two credit card applications he made and also increased the credit limit.

## **What happened**

In September 2017 Mr H applied for a credit card with Capital One. In his application, Mr H said he was unemployed with an income of £27,000. Mr H also said he was renting privately but didn't say how much he paid. Capital One carried out a credit search and applied its lending criteria. A credit card with a limit of £400 was approved.

The credit limit was increased to £650 in March 2018, £1,000 in December 2018 and £1,650 in January 2019. The credit card fell into arrears in 2022 and was closed at default in 2023.

In January 2022 Mr H applied for a second credit card with Capital One. In this application Mr H noted he was disabled with an income of £32,000. Mr H also said he was renting at £350 a month and had two dependents. Capital One carried out another credit search and applied its lending criteria, approving Mr H's application with a credit limit of £500. Mr H's account fell into arrears in 2022 and was closed at default in 2023.

Mr H went on to complain that Capital One lent irresponsibly when approving his applications and increasing the credit limit. Capital One issued a final response on 22 March 2024 and upheld Mr H's complaint in part. Capital One didn't agree it had lent irresponsibly when approving Mr H's first credit card and increasing the credit limit. But Capital One agreed it had lent irresponsibly in respect of the second credit card it approved in January 2022 and issued a refund to Mr H of £215.01 representing the interest, fees and charges applied. Capital One also arranged for Mr H's credit file to be amended so the account and default would be removed.

An investigator at this service thought Capital One had dealt with Mr H's case fairly and didn't ask it to do anything else. Mr H asked to appeal and his complaint was passed to me. I asked Mr H to supply some additional statement evidence. I also asked Capital One to provide additional information concerning the lending assessment it completed when considering Mr H's original application in September 2017.

Capital One responded and explained it had taken the opportunity to review Mr H's complaint again and wanted to change the outcome to uphold it in full. Capital One confirmed it was willing to settle by refunding all interest, fees and charges applied to the first credit card. Capital One also confirmed it would remove the account and information from Mr H's credit file.

I asked Mr H how he wanted to proceed. Mr H confirmed he wanted to proceed with a formal final decision.

## **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.

On receipt of Capital One's agreement to settle, I contacted Mr H who confirmed that he was pleased with the outcome but still wanted a final decision.

As noted above, Capital One already upheld Mr H's complaint about the credit card it approved in January 2022 and issued a refund to him. As a result, I don't need to make a finding on whether Capital One lent irresponsibly.

When I asked Capital One for further details concerning how it had assessed the first credit card application and limit increases applied it reviewed Mr H's case again. Capital One now agrees Mr H's complaint should be upheld. And in the absence of evidence to verify Capital One completed reasonable and proportionate checks, I agree that Mr H's case should be upheld.

When this service upholds an irresponsible lending complaint we normally ask a business to refund all interest, fees and charges to the borrower and make amendments to their credit file. I'm satisfied the settlement Capital One has agreed follows our approach and is a fair and reasonable way to resolve Mr H's complaint.

As I'm satisfied Capital One has agreed a settlement that is fair and reasonable in all the circumstances, I'm going to proceed on that basis and uphold Mr H's complaint.

### **My final decision**

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

- Rework Mr H's credit card balance to ensure all interest, fees and charges applied from September 2017 are refunded
- If the rework leaves Mr H with an outstanding balance, Capital One should contact Mr H to discuss affordable payment plans to repay it
- If the effect of all adjustments results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr H with 8% simple interest from the date the overpayments were made until settlement
- Capital One should remove the account and default from Mr H's credit file
- If Capital One has sold the debt to a third party it will either need to buy it back or work with the new owner to ensure the above settlement is put in place

\*HM Revenue & Customs requires Capital One to take off tax from this interest. Capital One must give Mr H a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 22 August 2024.

Marco Manente  
**Ombudsman**