

## **The complaint**

Mr T complains that Capital One (Europe) Plc (Capital One) acted irresponsibly in granting him two credit card accounts, as he says they were unaffordable for him.

## **What happened**

Mr T took out a credit card with Capital One in 2010. The credit limit was £200. In 2012, the credit card account was defaulted and sold to a third-party debt collection agency.

In 2022, Mr T took out a second credit card with Capital One, which also had a credit limit of £200. This account was defaulted in 2023.

In 2024, Mr T complained – via a professional representative – that the credit card accounts had been unaffordable for him. In its final response letter, Capital One said it thought the complaint about the credit card from 2010 had been brought outside the time limits set by the regulator. It said it thought it had acted responsibly in granting the credit card from 2022.

A different Ombudsman issued a decision about our jurisdiction to consider the granting of the credit card account in 2010. She decided that the complaint about that credit card was one our service could consider.

One of our Investigators then considered Mr T's complaint and didn't uphold it. Mr T's representative disagreed with our Investigator's opinion. I issued a provisional decision, in which I said that I thought that Capital One had not lent responsibly in granting the credit card from 2012, but it had acted reasonably in granting the credit card from 2022. I therefore said I was likely to uphold Mr T's complaint.

Neither party responded by the deadline, so the case returns to me for a 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.

I issued a provisional decision, in which I said:

Firstly, I agree with the previous Ombudsman that Mr T's complaint about the credit card opened in 2010 has been brought within the time limits set by the regulator.

I've considered the relevant rules and guidance on responsible lending set by the regulators, initially the Office of Fair Trading and from April 2014 onwards the Financial Conduct Authority, now laid out in the consumer credit handbook (CONC). In summary, these say that before Capital One provided each account it needed to complete reasonable and proportionate checks to satisfy itself that Mr T would be able to repay the debt in a sustainable way, without borrowing further elsewhere. As these were open-ended accounts, Capital One also needed to consider whether Mr T would be able to repay the

debt within a reasonable period.

### *Opening of the credit card account in 2010*

Capital One has explained that prior to offering Mr T the account, it considered the information he provided in the application and assessed information from a credit reference agency to determine whether or not to lend.

Capital One has been able to provide some of that data, along with the information from Mr T's application. But it has told us that some of the information it received from external credit reference agencies is no longer available, due to the passage of time. I think that's reasonable, as I wouldn't expect businesses to keep records indefinitely.

The application data shows that Mr T declared his annual income to be a total of £3,000 - £2,800 from employment and £200 from other sources. This would mean his monthly income was around £250.

The information Capital One has been able to provide from credit reference agencies showed that it found that Mr T had one defaulted account over five years prior to the application. Capital One also found that Mr T had a total credit balance of just under £5,600, and had missed payments on more than one account in the preceding 12 months. The information showed that Mr T had been two months' payments in arrears on one account, and had entered into a payment arrangement on that account three months' prior to the application with Capital One.

As I've explained above, Capital One needed to conduct proportionate checks to satisfy itself Mr T would be able to repay the debt in a sustainable way, within a sustainable period. In this instance, Capital One granted a credit limit of £200. So, sustainable monthly repayments of around 5% of the initial credit limit – allowing Mr T to repay the interest charged and part of the capital if the account were utilised to its limit – would be around £10.

Our Investigator thought Capital One should have conducted further checks to verify Mr T's income, to satisfy itself the credit card account would be affordable for him. But Mr T already had an outstanding credit balance of just under £5,600. Sustainable repayments towards this balance, along with the proposed limit of the Capital One credit card, would have been around £290 each month. This is more than the monthly income Mr T declared of around £250. And, from the information Capital One obtained from credit reference agencies, I think it was clear that Mr T was struggling to manage his existing credit commitments.

So, on balance, based on the information available to me, I think it should have been apparent to Capital One that further credit commitments wouldn't be sustainably affordable for Mr T. Accordingly, I don't think Capital One acted fairly and reasonably by accepting the application.

I have also considered whether Capital One's actions have meant there's an unfair relationship between it and Mr T. As the debt arising from this credit card account was sold to a third-party debt collector, I don't think s140A applies here. Even if I thought it did apply, I'm satisfied the redress I have directed below results in fair compensation for Mr T in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

For the reasons I've explained, I am upholding Mr T's complaint about the credit card taken out in 2010.

### *Opening of the credit card account in 2022*

Capital One has explained that prior to offering Mr T the account, it considered the information he provided in the application, and assessed information from a credit reference agency to determine whether or not to lend.

The information Capital One gathered from credit reference agencies showed that Mr T had an existing credit balance of just over £300. It also showed that one of Mr T's accounts had been defaulted around 20 months prior, and that he'd not missed any payments on his accounts in the 12 months prior to the application with Capital One.

As I've explained above, Capital One needed to conduct proportionate checks to satisfy itself Mr T would be able to repay the debt in a sustainable way, within a sustainable period. In this instance, Capital One granted a credit limit of £200. So, sustainable monthly repayments of around 5% of the initial credit limit – allowing Mr T to repay the interest charged and part of the capital if the account were utilised to its limit – would be around £10.

Capital One has provided a copy of information Mr T gave in the application, which shows Mr T declared he had an annual income of £25,000 – meaning his monthly income was around £1,750. The application data states that Mr T was living with parents and had no monthly housing costs.

I think the checks Capital One conducted were proportionate to the level of credit it offered, and I don't think it found any information that should have given it cause for concern. I think that, based on the information it found, it was reasonable that Capital One considered the credit limit of £200 to be sustainable and affordable for Mr T.

I've also thought about whether Capital One's actions meant there's an unfair relationship between it and Mr T. However, for the reasons I've already given, I don't think Capital One lent irresponsibly to Mr T in this instance, or otherwise treated him 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.

For the reasons I've explained, I am not upholding Mr T's complaint about the credit card taken out in 2022."

I've read and considered the full file again. As neither party made any further comments, I see no reason to depart from my provisional decision.

### **Putting things right**

To put things right, Capital One (Europe) plc should liaise with the third party debt collection agency to transfer any remaining balance from the credit card account opened in 2010 back to itself. It should then:

- Rework the account, removing all interest and charges.
- If the reworks result in a credit balance, this should be refunded to Mr T along with 8% simple interest per year calculated from the date of each overpayment to the date of settlement.
- Or, if after the rework there is still an outstanding balance, Capital One should arrange an affordable repayment plan with Mr T for the remaining amount.

**My final decision**

My final decision is that I uphold this complaint. To put things right, Capital One (Europe) plc should take the steps above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 27 May 2025.

Frances Young  
**Ombudsman**