

The complaint

Mr S, through his representative, complains that Capital One (Europe) plc lent to him irresponsibly by giving him credit cards he could not afford.

What happened

Mr S took two cards with Capital One. Here is a table showing some information.

Card	Approved	Credit Limit	Status
Ocean Card 1	April 2019	£200	Defaulted May 2022 due to Mr S' insolvency. Closed May 2024
Card 2	5 June 2024	£500	open

Mr S signed up to be represented 2 May 2024 and his letter of complaint was sent to Capital One later that month. At that time Mr S had the Ocean Card 1 only. On 5 June 2024 Mr S applied for and was approved for Card 2. So, the final response sent by Capital One dated July 2024 covered both cards.

In that FRL Capital One accepted it had done the wrong thing giving Mr S the Ocean Card 1 in April 2019 and it refunded him all charges, all interest, removed his name from its marketing database, and applied to the credit reference agencies for that account to be deleted from its records. It also updated its systems, so as not to offer Mr S any optional credit limit extensions in future for Card 2.

The FRL referred to the Debt Relief Order (DRO) Mr S had been in and it said

'As your client's defaulted account was partially settled and closed in May 2024, following the completion of their Debt Relief Order, the refund will be issued to your client by cheque. They should receive this amount within the next seven working days.'

For Card 2 Capital One said it did not uphold his complaint because it had asked Mr S for bank account statements leading up to the card approval date in June 2024 so that it could better understand his circumstances. But it had not received those statements and so did not uphold the complaint about the Card 2 approval. It invited Mr S to send them in and it would reassess its outcome.

After the FRL was received Mr S' representative referred it to the Financial Ombudsman where one of our investigators looked into the complaint surrounding Card 2 only. Mr S' representative sent to us a copy of the FRL at the beginning of the complaint process.

Our investigator did not think that the complaint should be upheld. Mr S disagreed and the unresolved complaint was passed to me to decide.

Mr S had already sent to us his personal credit report which showed the insolvencies Mr S has had to bear – an Individual Voluntary Arrangement (IVA) and a DRO. That report date was April 2024 but as Capital One has said that the DRO ended in May 2024 then I have accepted that as the correct information.

On 12 June 2025 I issued a provisional decision in which I gave reasons why I was planning to uphold the complaint. In that provisional decision I said that Mr S has time to send to me further information surrounding that DRO end date. Receipt of compensation while still in a DRO has consequences for which Mr S would need to take advice from specialists.

The provisional decision is duplicated here for ease of reading and the findings I made form part of this final decision.

What I provisionally decided on 12 June – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Our approach to unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - is set out on our website and I have followed it here. Capital One is required to lend responsibly. It needed to conduct checks to make sure that the credit it was giving to Mr S was affordable and sustainable. Such checks need to be proportionate to things like the credit limit it offered Mr S, how much he had to repay (including interest and charges) each month, his borrowing history with it and what it knew about his circumstances. The approach by Capital One is not just looking at the likelihood of the credit being repaid, but the impact of the repayments on Mr S. There is no set list of checks that it had to do, but it could consider several different things such as the amount of credit being applied for, the likely monthly repayments and the overall circumstances of the borrower.

This means to reach my conclusion I need to consider if Capital One carried out proportionate checks at the time of Mr S' application and when it applied the credit limit increases; if so, did it make fair lending decisions based on the results of its checks; and if not, what better checks would most likely have shown.

Capital One has already upheld and recompensed Mr S for the complaint about the Ocean Card and so I need not review that part of the complaint as it has been resolved. In relation to Card 2, I consider it highly relevant that Capital One was considering Mr S' application for a fresh card a few days after his earlier, defaulted card had closed and after Mr S' complaint had been received by it. Capital One has said that knowledge of the history of the customer is relevant to any lending decision it may make and here knowledge of Mr S' recent DRO, the arrears on the Ocean card and the default due to the earlier insolvency would have been highly relevant to the new Card 2 application. In these circumstances reliance on information declared by Mr S on the June 2024 application and then use of Office of National Statistics (ONS) data for non-discretionary expenses was not good enough and I do not consider proportionate checks were carried out.

Added to which the declared information was that Mr S was a homemaker which usually suggests that the individual was not working and yet Mr S had declared a gross annual income of £25,000. These two pieces of information do not sit together satisfactorily and ought to have been checked.

In addition, Mr S had declared 'other household income' as £5,000, he had one dependant, he was a council tenant and his mortgage repayment (by which I assume he'd meant rent) was only £250. I assume this means each month - it's not clear from the form provided. I think the additional income ought to have been checked as well.

However, I have thought about all of this and consider that Capital One had enough information without needing to carry out additional checks to make a decision. In light of all that Capital One knew of the recent circumstances surrounding Mr S' credit history and in

light of the information provided on the Card 2 application together with an irresponsible lending complaint having been received, then I consider that the second card ought to have been refused.

Having said all of the above, I looked to see what Capital One would have seen had it carried out additional checks surrounding his credit commitment situation, by using the personal credit report dated April 2024 sent to us by Mr S. I have reviewed that to see what sort of circumstances Mr S was in at the time. It has provided me with detail about his insolvencies. When Capital One defaulted his Ocean card in May 2022 due to his insolvency that must have related to his IVA. I say this because that IVA has been marked as completed and the DRO commenced May 2023. DROs usually last a year. And the 'partial settlement' Capital One has told us about for the Ocean card likely refers to the fact that the successful DRO completion led to the balance being written off.

The credit report shows that most, if not all, of Mr S accounts within the last few years have been defaulted and likely the default dates coincided with the IVA and the DRO. This is what I would have expected to have seen with an IVA and a DRO in place or about to end.

I plan to uphold the complaint about Card 2. The complaint about the Ocean card is already resolved.

This is the end of the duplicated provisional 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.

Capital One has not responded.

Mr S' representative did not appear to know about the FRL outcome on the Ocean Card 1, which is perplexing as it sent to us the FRL in which the uphold for that part of Mr S' complaint is set out. A copy of the FRL was sent back to it recently.

In relation to the Card 2 uphold it accepted my provisional decision.

In relation to the confirmation of the DRO end date, I have heard nothing. So, all I can do is re-stress that Mr S needs to take specialist advice on accepting compensation, any funds or a windfall such as redress from a complaint while still in a DRO – if he is.

As Capital One has made no further points and as Mr S has accepted the findings I made in my provisional decision then I have no reason to depart from them. They are repeated here. Capital One approved a new Card 2 for Mr S, knowing he had insolvency issues as that was the reason it had defaulted the Ocean Card 1 in 2022, and knowing he'd made a complaint about not being able to afford the Ocean Card 1.

I uphold the complaint.

Putting things right

Having thought about everything, I'm satisfied that it would be fair and reasonable in all the circumstances of Mr S' complaint for Capital One to put things right by:

- Reworking Mr S' current credit card balance on Card 2 to ensure that all interest, fees, and charges added from the outset are refunded. Capital One may consider Card 2 suspension in light of the provisional decision's findings.

AND

- If an outstanding balance remains on Mr S' account once these adjustments have been made Capital One should contact him either to arrange a suitable repayment plan, or for Mr S to discuss repayment in the normal way for credit cards.

- and if any adverse entries have been made since Card 2's inception then these should be removed up to the date of this complaint resolution.

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 S 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 S' credit file about Card 2. Capital One can also reduce Card 2's credit limit by the amount of compensation it awards, as long as doing so wouldn't leave Mr S' balance above any new credit limit.

*HM Revenue & Customs usually requires Capital One to deduct tax from this interest. It should give Mr S a certificate showing how much tax it has deducted if he asks for one.

I've considered whether the relationship between Mr S and Capital One might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Mr S results in fair compensation for him 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.

My final decision

My final decision is that I uphold the complaint and I direct that Capital One (Europe) plc does as I have outlined in the 'putting thing right' part of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 July 2025.

Rachael Williams
Ombudsman