

The complaint

Mr B complained about Capital One (Europe) plc. There was a credit card in Mr B's name, which he said he hadn't taken out. Capital One refused to write off the debt, saying it believed it was Mr B who took out the card.

Mr B wants the debt written off, and adverse information removed from his credit file

What happened

In January 2014, Capital One received a signed credit card application form and after checks, opened a credit card in Mr B's name.

In March, the customer rang to ask for a username and password to use the account online, and a couple of weeks later, the address on the account was changed using the online service.

The account was used regularly for groceries and general spending, and about £1,000 was spent up to November 2014. Payments totalling around £300 were credited to the account, until January 2015 when payments stopped. In March 2015 the account was passed to Capital One's collections team. The customer told the collections team that the reason he hadn't been able to pay was because he was off work. Capital One sent a self-help pack, including an income and expenditure form.

In April a notice of default letter was sent, asking the account holder to pay £71.94 to prevent the account defaulting. This wasn't paid, so in May a statement of default was registered, confirmed to the account holder by letter. Capital One then tried to collect payments using debt collection agencies but was unsuccessful. It sold the debt to another organisation in September 2016.

Mr B said that in October 2019 he became aware of multiple cases of identity theft. He complained to several lenders and debt collectors, and some debts were written off and removed from his credit file. In November, Mr B complained to the firm to which Capital One had sold the debt. He said he hadn't opened the account and had never lived at the address on record.

On 29 January 2020, Mr B rang Capital One to report application fraud, which he said he'd discovered by looking at his credit file. Capital One took details and investigated. On 11 February, Capital One told Mr B that it didn't accept his claim of fraud. It said that was based on information provided by Mr B, credit reference agencies and fraud databases. And it had also reviewed any incoming payments, phone calls and written correspondence received.

Mr B didn't agree. Capital One sent Mr B its final response on 20 February. It said it was holding Mr B liable for the outstanding balance. It also told him that he could report to the police, and if he did, Capital One would co-operate with the police investigation.

Mr B wasn't satisfied and complained to this service.

Our investigator didn't uphold Mr B's complaint. He said that either Mr B had opened the account himself, or someone else had opened it with his permission, or someone opened the account without Mr B's knowledge or permission.

The investigator explained that when an application is submitted, lenders check the name and address for credit history as well as fraud prevention. Lenders aren't required to tell applicants exactly what information they gather, as this is sensitive. In this case, Capital One had identified links between Mr B and the address on the signed application form, going back to 2011. The investigator said it was highly unlikely a fraudster would have made repayments, especially after the last spend on the card. And the calls had shown that Mr B hadn't been willing to provide Capital One with any further information such as information from other lenders, or the police.

So the investigator considered Mr B had opened the account himself.

Mr B didn't agree. He sent a copy of his credit file from 2020, and a letter from a debt collection agency accepting it had been contacting Mr B about accounts that weren't his. Mr B said it wasn't fair that he had to prove the Capital One account didn't belong to him and it should be up to Capital One to prove that it did. He said the disputed account could belong to someone with the same name and date of birth. And he also said that he'd had an account with Capital One in 2011, which had been registered in a different city and was now closed. He said Capital One couldn't link something to his name when it was registered to a different address. And Mr B also sent in evidence showing he was on the electoral roll elsewhere in 2017.

But the investigator didn't change his view, and Mr B asked for an ombudsman 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.

Lenders conduct a range of checks before opening an account, as Capital One did here. Mr B believes the debt couldn't be linked to his name when he had a different address. But the evidence he supplied about being on the electoral roll elsewhere was dated 2017. It doesn't prove anything about where Mr B was living when the account was opened in January 2014. I'm satisfied that Capital One's multiple checks in January 2014 confirmed Mr B's personal details at that time, including his address at that time from the electoral roll.

To be on the electoral roll, someone would be asked for their National Insurance number, which is a unique number for an individual. This makes it very unlikely indeed that, as Mr B suggests, the Capital One account had been taken out by someone else who had the same name and date of birth as he did.

Mr B supplied a letter from a debt collection agency which accepted it was contacting him about accounts which didn't belong to him. But the letter wasn't about the Capital One account so it isn't relevant to whether or not the Capital One account was genuinely opened by Mr B.

Capital One also told Mr B it would co-operate with any police investigation, but there's no evidence that Mr B reported either the Capital One account, or any others, to the police. I find it very surprising he didn't do so, if he believed that a number of accounts had been fraudulently opened in his name.

I've looked at the history of the account, to see whether this indicates it was likely to have been taken out by someone fraudulently using Mr B's personal details. But the pattern of usage of the account doesn't indicate a fraudulent account. The account holder spent money on groceries and other general spending, sometimes in relatively small amount. And payments of around £300 were made to the account over time. Those payments continued after the last time money was spent on the card in November 2014, with the last payment in January 2015. None of that indicates a typical pattern of fraud. Fraudsters would maximise the amount spent, very early on, to maximise their gain, and fraudsters would be most unlikely to make payments towards the debt.

I've also borne in mind that the collections team spoke to the account holder in March 2015, and was told that the reason he couldn't pay was because he wasn't working but expected to do so soon. This too isn't a typical pattern for an account which has been opened by a fraudster.

Taking all these factors into account, I consider it's most likely that the account was opened by Mr B in January 2014 and wasn't a fraudulent application by someone else. So I find that it was fair and reasonable for Capital One to hold Mr B liable for the outstanding balance.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 February 2021.

Belinda Knight
Ombudsman