

The complaint

Mr B complains that Capital One (Europe) plc (CapOne) suspended his credit card as he was in persistent debt.

What happened

Mr B had a credit card from CapOne since 2003. In 2020 the limit was £4000. In September 2018, March 2020 and September 2020, he received persistent debt letters from CapOne. These suggested he should increase his payments. In October 2020, his card was suspended.

Mr B complained. He said the letter in March 2020 recommended he reduce the amount he was paying – he calculated this to be £186 per month between November 2019 and April 2020. And CapOne's letter recommended he pay either £155 per month or £181 per month (depending on the possible term of repayment). So – CapOne stood to make more interest from his debt than if he continued to pay the amounts he was doing. And – it was unreasonable for them to suspend his card on that basis. He was now in a difficult position - as he didn't have a working credit card. Mr B also considered that what CapOne did was in contravention of the Consumer Credit Act and commented also on the validity of the FCA's persistent debt scheme. He wrote to his MP about what had happened.

CapOne said Mr B hadn't done anything wrong. But over the previous 36 months, he'd paid more in interest and fees than the amounts paid in to reduce his debt. This meant he was only reducing his debt very slowly. Under the FCA rules, they wanted to set up a repayment plan for him, so he would clear his balance faster and this would cost him less interest than if he made the minimum payments. They first wrote to Mr B in September 2018, then in June 2019 and then in March 2020, setting out payment options. They said the letters said they could discuss other options which would've enabled him to keep the use of the card. A reminder was sent to him in September 2020, but he didn't get in touch – so his card was suspended. If he wished to get in touch now, they'd be happy to review the suspension.

Mr B brought his complaint to us. Our investigator said CapOne acted reasonably. She said they'd followed the persistent debt rules and guidance set out by the FCA. CapOne had given Mr B options and warned him in advance that his card might be suspended.

Mr B asked that an ombudsman look at his complaint.

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 looked at what happened here. I think that CapOne acted fairly, but I want to set out my findings as I hope that Mr B might find this helpful. I think there may have been some misunderstanding about the persistent debt communications that were sent by CapOne – so I want to clarify this.

At the outset, let me say that this service exists to resolve individual disputes between customers and financial businesses – in this case, Mr B and CapOne. We are not the regulators of CapOne – that's the Financial Conduct Authority (FCA) – so I'm not going to comment on the validity of the persistent debt scheme. That's for the FCA and if Mr B wishes to challenge it, then he must approach them. But – the FCA have set out the persistent debt rules, and CapOne, which is regulated by the FCA, must follow them. It's our role to ensure they've done so fairly and reasonably.

The FCA's persistent debt rules are set out on the FCA handbook, CONC 6.7.27. They say (in summary) that firms such as CapOne must look at the accounts of borrowers to ensure they're reducing their debts and therefore, not paying too much interest. And so – where a borrower is paying more in interest and fees than they are paying towards reducing the amount of the debt, then a repayment plan should be put in place to deal with this. And, where this can't be agreed, the card may be suspended – to stop customers from increasing their debts further. The intention of the rules is to ensure that customers are protected from paying too much interest – and in some cases, never actually repaying their debts. This typically happens if customers only pay the minimum amount each month, while still spending on their cards.

The letter sent to Mr B in March 2020 said that over the previous 36 months, he'd paid more in interest and fees than he'd paid towards the amount of the debt. I've checked this and for clarity set out what happened in the three years before CapOne wrote to Mr B – and this shows that in two years, Mr B's payments were almost the same as interest, fees and spending; and in one year (to November 2019), interest, fees and spending were slightly more than his payments:

Period	Interest and fees paid	Spending	Payments to the account	Net Money In (Out)
Nov 2018-Nov 2019	£1345	£989	£2308	(£26)
Nov 2017-Nov 2018	£1337	£1031	£2373	£5
Nov 2016-Nov 2017	£1237	£1288	£2629	£114

So – Mr B's debt wasn't reducing over the three-year period – and that's what the FCA rules are intended to avoid.

CapOne proposed payments were either £155.26 per month – which they said would pay off the debt in 47 months; or £181.74 per month – which would pay off the debt in 35 months. Mr B said these were actually less than he was paying – and I can see that was the case. He says he was paying around £186 per month between November 2019 and April 2020. And looking at his statements, he did this consistently before that time also. But – the overall point is that his debt wasn't being reduced and he was therefore likely to pay more interest than if he could make larger payments.

I can see that CapOne – in their letters to Mr B – offered to discuss matters and come to an arrangement that would work for him. They said in their letter dated March 2020 *"We need you to contact us by 13 April 2020 to let us know which of the following Repayment Plan options you'd like to take. If none of these options are affordable, we can still help you and we still need you to get in touch..."* But unfortunately, it appears that an alternative plan couldn't be agreed when Mr B did contact CapOne – so they suspended his card. They had let him know this might happen as the letter in March 2020 said, *"If we don't hear from you by 13 April 2020, under the new rules, we will have to suspend your card."* Because of the

pandemic, the timescales were pushed out to October 2020. A further letter was sent to Mr B in September 2020 which said, "*Under the new rules, if we don't hear from you by 15 October 2020, we'll have to suspend your card.*" So – CapOne were clear in their communications – that Mr B's card would be suspended if payments couldn't be agreed.

Mr B has said to us that he considered that CapOne were changing his revolving credit facility to a fixed loan. I don't think that's the case – he would still have been able to retain his card and 'revolve' the balance by making purchases and payments – CapOne were just trying to help Mr B by asking him to agree to regular, higher payments.

So, in conclusion, I don't think CapOne acted unreasonably. I hope Mr B understands my reasoning – but I won't be asking CapOne to do anymore here. They've suggested that Mr B now gets in touch with them to discuss a payment plan which works for both sides – and so they can then reinstate his card. I hope he feels able to do this.

My final decision

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 28 July 2021.

Martin Lord
Ombudsman