

The complaint

Mrs R complains about how Capital One (Europe) Plc treated her and communicated with her when she had a debt on her credit card account.

What happened

The background to this complaint is well known to both Mrs R and Capital One. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mrs R had a credit card account with Capital One. In July 2020 the account was recorded as 'defaulted'. Mrs R wanted Capital One to write this balance off because of her medical circumstances and her credit file to have the related negative information removed. Capital One requested further supporting evidence from Mrs R – but continued to send correspondence related to the debt.

Mrs R complained to Capital One about the service she'd received. She also said she'd been discriminated against – on account of her medical circumstances. Unhappy with Capital One's response, Mrs R referred her complaint to our Service for an independent review. Whilst the complaint was with our Service, Capital One made an offer to apologise, write off the debt, remove related adverse data reported to the relevant credit reference agencies and pay Mrs R £100.

Mrs R accepted the offer – except for the £100 that was offered, as she felt it didn't go far enough. Our Investigator considered the complaint and recommended that Capital One's offer was fair - but they needed to increase the compensation offered to £250. Mrs R didn't accept our Investigator's recommendation – so the complaint has been referred 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.

Although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. This isn't meant as a discourtesy to either party – it simply reflects the informal nature of our Service.

As Capital One have accepted that things didn't happen as they should have and Mrs R has partially accepted the offer made, my decision will be limited to considering whether the offer of £250 goes far enough to recognise the impact of Capital One's actions on Mrs R.

The allegation of discrimination

Mrs R has made an allegation that she was discriminated against because Capital One didn't make reasonable adjustments to take into consideration her medical circumstances.

Our Service is unable to make findings on whether something constitutes discrimination under the Equality Act 2010. This is because we're an informal alternative to the courts, and only a court of law can make a legal finding based on the definitions set out within the Act. However, in my decision I've considered whether Capital One have acted in a fair and reasonable manner overall, and in order to do that I've taken a number of things into consideration - including the Equality Act 2010.

In Mrs R's complaint, Capital One accepted that they didn't make appropriate reasonable adjustments and have apologised. Therefore, as this point isn't in dispute, I've considered the impact of this failing on Mrs R alongside the steps that Capital One have taken to try and put things right.

I've weighed up everything that's happened here – including keeping in mind that some of the correspondence received would've been automated, alongside the impact that Mrs R has described and the steps already taken by Capital One to put things right.

On balance, I'm satisfied that £250 our Investigator recommended (an increase on the £100 initially offered by Capital One) is fair, reasonable and proportionate - and I won't be directing Capital One to increase the award. It's important to say that it's not the role of our Service to fine or punish businesses.

This isn't to at all play down the impact of this situation on Mrs R. It's clear from her testimony that Mrs R was experiencing a very difficult period in her life and the actions of Capital One made things more difficult for her.

Having carefully considered everything Capital One has since done, or proposed to do to try and put things right, I won't be directing a further increase on the £250 our Investigator recommended.

Putting things right

Given the time that's passed since this complaint came to our Service, it's possible that Capital One have already actioned parts of their offer from 26 July 2022. For example, I note that Capital One have already issued a formal apology to Mrs R. But, for completeness, I direct Capital One to:

- Refund all interest, charges and fees charged to this account (account ending 9325); and
- Write off any outstanding balance*; and
- Pay Mrs R £250 for any trouble or upset their actions have caused.

*Capital One should also ensure that they accurately update any adverse information related to this account that they've reported to the relevant credit reference agencies.

My final decision

My final decision is that I uphold this complaint and I direct Capital One (Europe) Plc to follow my direction above - as set under the heading '*Putting things right*'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 10 February 2023.

Daniel O'Shea
Ombudsman

