

The complaint

In summary, Mr B complains that Capital One (Europe) Plc, hasn't helped him with the credit card account he has with it. He's said he has been using the account to its limit, struggled to make the monthly payments and has been in persistent debt for many years.

What happened

Mr B took out a credit card in 2008. In December 2022 he complained to Capital One about being provided with the credit card. Capital One didn't uphold the complaint, so he referred his concerns to our service.

Capital One didn't consent to our service looking into Mr B's concerns, as it didn't think the complaint about being provided with the credit hadn't been made in time. One of our investigators explained why they thought Mr B's complaint was one our service could consider.

In response Mr B clarified that his concerns predominantly related to the persistent debt he had been in for the 6 years prior to him making his complaint. He said he had other complaints that had been upheld by our service.

Capital One said in response that whilst it didn't agree with what the investigator had said, in order to facilitate a swift resolution; it would consent to the complaint being considered by our service.

As Mr B clarified that he was only concerned with what had happened in the last 6 ½ years, the investigator confirmed that they would only look into his concerns about persistent debt, for the six years prior to the complaint being made to Capital One.

The investigator wrote to Mr B and Capital One. They explained why they didn't think Capital One had done anything wrong in relation to the persistent debt rules in respect of his account.

Capital One didn't respond to the view. But Mr B explained why he didn't agree with what the investigator had said. In summary, he explained that he had been in persistent debt for the majority of the previous 66 months. He said he was constantly over his credit limit which he thought should have set off alarm bells with Capital One. He asked for an ombudsman to review his concerns and referred to other complaints that he had won.

Our investigator then wrote to Mr B again. They addressed in more detail the other complaints with this service Mr B had referred to. They explained that each complaint was considered on its own merit, and that his other complaints were about irresponsible lending; whilst with this complaint, he had asked just for persistent debt to be considered in the previous 6 ½ years. So, the original lending in 2008 had not been considered.

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.

Having done so, I've decided not to uphold Mr B's complaint. I'll explain why.

For the avoidance of any doubt, I have only considered Mr B's concerns relating to the persistent debt he considers himself to have been in, in respect of the account, for the 6 ½ years prior to him raising his complaint with Capital One. So, I have not considered whether the credit provided to Mr B in 2008 was appropriate or unaffordable for him.

Mr B complained to Capital One in December 2022. So, I've considered the status of the account from 2016. I can see from the credit card statements that the minimum payments were made by direct debit and that the outstanding balance on the account was constantly over the credit limit by a relatively small amount each month.

But it wasn't until March 2018 that specific rules were introduced by the Financial Conduct Authority (FCA) regarding actions businesses such as Capital One had to take in relation to customers such as Mr B, who had been in persistent debt. At the time the rules came into force, I think Mr B fell within the definition of persistent debt as he had clearly paid more in interest, charges and fees than he had repaid towards the capital he owed in the previous 18 months prior to the rules coming into force.

However, firms such as Capital One had a further six months to become fully compliant with the new rules. In practice this meant that Capital One had until September 2018 to have made the required operational changes and to have written to Mr B in relation to his account.

In July 2018 I can see that Mr B paid over £2,000 off the outstanding balance on the account. This left a balance of just over £500 outstanding on the account. And I am satisfied that as Mr B made a such a substantial payment, this is why he didn't receive any persistent debt correspondence from Capital One – as it not unreasonably no longer considered him to be in persistent debt at that time.

There were late payment fees on the account. But I can see that Mr B made significant payments into the account over and above the minimum payments in late 2018 and at the beginning of 2019, which brought the outstanding balance account significantly below the credit limit of £2,000. And in the 18 months prior to December 2022 significant payments were made into the account which reduced the outstanding balance to below £100.

So, looking at the management of the account over that period of time, I don't think Capital One would necessarily have concluded that Mr B was in financial difficulties. Or that it necessarily needed to take further steps to support him in relation to the account. If it had provided further support, I would have expected that to involve some form of repayment plan to enable Mr B to make inroads into the outstanding balance on the account. And as I've explained, Mr B did make significant payments to pay down the outstanding balance.

Mr B has also commented on other cases that have been considered by this service. I want to make it clear that I consider individual complaints. And outcomes can be different to what on the face of it, appear to be similar if not identical complaints. This is often down to the nuances and individual circumstances of a particular case. Also, I am not bound by what colleagues may have decided on other cases.

As explained by our investigator, the other cases Mr B has had with our service relate to irresponsible lending. In this case Mr B has clarified that he doesn't want us to consider the original credit he was provided with in 2008. So, the issue considered in this complaint is different from the other cases that he has referred to our service.

My final decision

For the reasons I've set out above, my decision is not to uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 September 2023.

Simon Dibble
Ombudsman