

## The complaint

Mr B complained that Capital One (Europe) plc trading as Capital One held him responsible for a debt linked to a credit card he said he didn't apply for. Mr B is also concerned that his data was shared with a third party.

## What happened

Both sides are familiar with the case, so I'll summarise things in brief.

In June 2023 Mr B was contacted by a debt collection agency (who I'll refer to as 'L') in relation to a debt in connection with a Capital One credit card, which Mr B says he didn't apply for.

Mr B complained to Capital One. It investigated and found Mr B to be responsible for the credit card application and the associated debt.

Mr B referred his complaint to the Financial Ombudsman. He maintained that he didn't apply for the credit card and wasn't responsible for the debt. Mr B was also unhappy with Capital One's handling of his case – specifically that it wouldn't provide evidence to show the credit card belonged to him.

Capital One contacted our Service on 11 September 2023 to say it had reviewed the case and was now satisfied Mr B wasn't responsible for the debt. Capital One said:

***'We have now requested for all the relevant adjustments to be made to remove any link to [Mr B] and can confirm [Mr B] is not responsible for this account'.***

Mr B still wanted us to consider how he'd been treated by both Capital One and 'L' – and the impact this had had on him.

Mr B reiterated that he'd not been provided with any evidence from Capital One or from 'L' that he'd applied for the credit card – and that it appeared the only basis for initially deciding he was responsible for the debt was because he'd held a genuine Capital One credit card since 2021. Mr B was also concerned that Capital One had provided 'L' with his personal data without his consent.

Mr B wanted compensation from both Capital One and 'L' for the distress he'd been caused.

Capital One offered Mr B £150 by way of an apology which he didn't accept. Mr B wanted Capital One and 'L' held jointly liable for what had happened and for the impact it had had on him. And he wanted to know how his data had been shared without his consent and why 'L' was still contacting him.

One of our Investigators considered Mr B's complaint. In short, she explained why Mr B had mistakenly been chased for the debt and how Capital One wasn't directly responsible for the contact Mr B had been getting from 'L'. On that basis, our Investigator thought £150 compensation was fair.

Mr B didn't agree and so the case has been passed to me to decide. He said he'd explained to Capital One and 'L' on numerous occasions that the credit card wasn't his – and yet he continued to receive correspondence about it. He said the whole situation had been very stressful and because of that, he wanted Capital One to increase its offer of compensation.

### **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 reached the same outcome as our Investigator – and for largely the same reasons. I realise this will be very disappointing for Mr B and I'd like to assure him I haven't taken this decision lightly.

In doing so, I've very carefully considered all the evidence provided. And I'd like to assure Mr B that if I don't mention a particular point, it's not because I haven't considered it, but I've focussed instead on what I believe to be important to the outcome of this complaint.

I should also point out that my focus is on the actions of Capital One, not 'L', and whether Capital One needs to do more than it has already done to put things right for Mr B. I can see that Mr B has now raised a separate complaint about 'L' through our Service.

I appreciate Mr B's strength of feeling – and I don't underestimate the impact that Capital One's accepted shortcomings had on him. He had the worry that he was being held responsible for a debt that wasn't his; and was frustrated that his explanations as to how the situation had come about weren't seemingly being listened to by Capital One – who initially wrongly maintained Mr B had applied for the credit card and was responsible for the debt.

Those mistakes by Capital One undoubtedly added to Mr B's distress and caused him a level of inconvenience and upset. So, my review has focused on whether Capital One has done enough to rectify this.

When considering what a business should do to put things right, it's not my role to punish it – instead I look at the direct impact its shortcomings have had on a customer.

As I understand things, this situation came about because a third party with the same name as Mr B (but a different date of birth) and who lived at Mr B's previous address - defaulted on a Capital One credit card applied for in January 2019. From late 2019 Capital One was writing to the correct account holder at the correct address. Because the debt wasn't settled, Capital One sold it to 'L' in December 2020.

Firstly, it's standard practice for a debt to be sold to a debt recovery agency (in this case 'L') when it falls into severe arrears. And so, I can't say Capital One did anything wrong here. Furthermore, from the information I've seen, it seems Capital One provided 'L' with the correct details for the correct applicant. I say that because 'L' sent a letter on 12 June 2023 to a Mr B (presumably the correct one) to Mr B's old address.

From 22 June 2023 onwards 'L' started writing to Mr B at his new address – and it seems that this correspondence is what prompted him to contact Capital One and 'L' over concerns that he was being held responsible for a debt that wasn't his.

Because my focus is on the actions of Capital One – it's not entirely clear to me how 'L' came by Mr B's address and contact details. But I've not seen any evidence to suggest that this was because of a mistake by Capital One.

Capital One has accepted that it could've handled things better and identified sooner that Mr B wasn't responsible for the debt. But Mr B's main concern is that he was continually contacted by 'L' whilst disputing the matter; and as I've explained – I can't see that this was in any way caused by a mistake by Capital One.

### **Putting things right**

In taking all of this into account, I consider the £150 Capital One has offered to Mr B to be a fair and reasonable level of compensation and in line with what I'd have awarded had Capital One not made an offer. And I think this payment, combined with Capital One's acceptance and explanation, means it has taken reasonable steps to put things right in the circumstances of this complaint.

### **My final decision**

My final decision is that this complaint is upheld in part. Capital One (Europe) plc trading as Capital One should:

- Pay Mr B £150

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision **before 14 March 2024**.

Anna Jackson  
**Ombudsman**