

The complaint

Mr W complains Capital One (Europe) plc unfairly pursued him for credit card debt. He's also unhappy with the level of customer service they provided – and considers it amounts to discrimination under the Equality Act 2010.

What happened

The details of this complaint are well-known to both parties, so I won't repeat them again here. The facts aren't in dispute, so I'll focus on giving the reasons for my 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.

Having considered everything, I'm upholding Mr W's complaint – but not as he hoped. I'll explain my reasoning below:

- Mr W has complained Capital One shouldn't have been pursuing him for the outstanding balances of two credit cards he held with them because he thought they were statute barred. It's not for our service to make a finding on whether a debt is statute barred because we do not have the powers to do so. Only the Courts can make a finding on that. However, we can consider if a financial business, like Capital One, has treated a consumer fairly. So, that's what we can consider in this case. However, when investigating Mr W's complaint and following the involvement of our service, Capital One wrote off Mr W's outstanding balances. Therefore, it's neither helpful nor necessary for me to make a finding on what was owed or why. That's because Mr W is no longer being pursued for any outstanding balances from Capital One. Therefore, my decision will focus on the level of customer service they provided.
- Mr W has complained that Capital One's handling of his accounts and customer service amounts to disability discrimination under the Equality Act 2010. As we are an informal service, we do not have the power to make a finding on discrimination. That's something only the Courts can do. But we do take relevant legislation, regulations, and good industry practice into consideration when deciding if a consumer has been treated fairly and reasonably.

- Mr W had explained on multiple occasions that he has a number of health conditions that impacted his ability to manage his accounts. Despite him being open with Capital One about this, it took them longer than I'd expect to acknowledge this and co-operate with Mr W to determine the appropriate level of support he needed. Capital One has acknowledged their mistakes and accepted they shouldn't have sold his account to debt collections agencies. Once they properly considered Mr W's circumstances, they agreed to write off his outstanding balances in May 2023. I consider that was the right thing to do in the circumstances.
- However, it wasn't until this case was with our service that Capital One acknowledged one of Mr W's credit card accounts remained open – and Mr W was still receiving communication from them about it. But they admitted they should have closed this and written off the balance and took the steps to do so. But this additional mistake only added to the frustration Mr W was already experiencing as a result of Capital One's mistakes.
- Capital One has already paid Mr W a total of £350 for the distress and inconvenience caused by their failure to properly consider his circumstances when managing his accounts. They also acknowledged they shouldn't have asked Mr W to speak with them over the phone when he had explained on several occasions that he needed to communicate with them in writing. But when I consider the additional impact caused by their failure to write off the balance of Mr W's second account, I don't think the £350 award goes far enough.
- Following my involvement, Capital One has offered to pay Mr W an additional £150 in recognition of the confusion and inconvenience caused by them corresponding with Mr W about a credit card account that should have been written off sooner. But Mr W doesn't think that amount is fair. While I appreciate Mr W's strength of feeling on the matter, I can't agree a higher award is warranted. That's because I've only seen evidence of one piece of unexpected correspondence that Mr W received in relation to this account. So, while it may have exacerbated his frustration in the matter, it wasn't a continuous problem. As such, I think the additional £150 offered fairly reflects the added frustration he experienced as a result of their mistake.
- I understand this matter has been ongoing for some time now. Unfortunately, raising a complaint comes with inevitable inconvenience, and that isn't something our service would ordinarily take into consideration when determining a fair and reasonable way to resolve a complaint.

For the reasons above, I'm upholding Mr W's complaint – albeit, not as he hoped.

My final decision

My final decision is that I'm upholding Mr W's complaint about Capital One (Europe) plc.

To put things right, Capital One (Europe) plc should pay Mr W £150 in recognition of the distress and inconvenience caused by their mistakes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 April 2024.

Sarrah Turay
Ombudsman