

The complaint

Miss P complains Capital One (Europe) plc (“Capital One”) refuses to refund her for transactions on her account she says she didn’t authorise. Miss P is also unhappy about the distress and inconvenience caused and the effect this has had on her credit score.

What happened

The facts of this case are well known to both parties, so I won’t repeat them in detail here.

In summary, Miss P disputes several payments made from her credit card between February and August 2024 - all to the same merchant. Initially she had complained about transactions from May onwards, and said that she had made genuine payments to this merchant before. But more recently she has disputed all the payments made to this merchant, the first of which was in February 2024. Miss P says her account occurred additional fees and charges as a result of the disputed transactions and her credit rating has been negatively affected. Miss P would also like compensation for the distress and inconvenience this has caused her and the knock-on effect this has had on her visa application, job prospects and housing issues. She is asking for a minimum of £10,000 in compensation.

Capital One says its evidence shows the transactions were completed using Miss P’s credit card details online using her usual device and IP address, and some were additionally verified via the app or using a passcode. It says the evidence it has of Miss P’s app usage also proves that it is more likely than not that she has authorised these transactions herself. So, it has held her responsible for these payments and all associated fees and interest.

Our investigator considered this complaint and decided not to uphold it. Miss P disagreed, so the complaint has been passed 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.

Generally speaking, Capital One is required to refund any unauthorised payments made from Miss P’s account. Those rules are set out in the Payment Service Regulations 2017. And in cases where it’s more likely the transactions were unauthorised; we can also look at whether any compensation is due. Miss P has said she didn’t carry out the transactions in dispute. So, I must give my view on whether I think Miss P did authorise the transactions or not.

The evidence supplied by Capital One includes evidence of the transactions in dispute, the verification requested and Miss P’s app usage. This shows that at the time of most of the transactions to this merchant Miss P had been on the Capital One banking app on her usual mobile device and via an IP address used often for genuine activity. The evidence also shows that most of the transactions in dispute required additional verification via the banking app which was again accessed via Miss P’s usual device and IP address.

Miss P says she doesn't dispute being on the banking app at the dates and times in question but maintains that she didn't make these payments. But there is no evidence of any other devices added to her account or any other IP addresses used. So, it seems more likely these transactions were made using her device and I'm satisfied that they were verified using her device. Miss P says that no one else has had access to her phone and credit card. So, I've not been provided with any evidence to support what Miss P has said about not authorising the transactions herself. It's possible that Miss P clicked on payment links while online, and perhaps didn't realise she was being charged for these. But without any other evidence to the contrary, I am not persuaded that someone else made these transactions on Miss P's account without her authorisation.

Miss P has asked us to consider the effects these transactions have had on her credit report and other circumstances she's faced. However, as I have not found these transactions to be unauthorised, and I think it's more likely they were carried out by Miss P, I can't ask Capital One to amend any of the information in her credit file or consider distress and inconvenience. Overall, my decision is that these transactions do not need to be refunded and I don't think Capital One has done anything wrong, so I won't be asking it to do anything further.

My final decision

For all the reasons outlined above I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 16 January 2025.

Sienna Mahboobani
Ombudsman