

The complaint

Mr A complains Capital One (Europe) plc won't refund transactions made from his credit card account which he says he didn't make or authorise.

What happened

Mr A reported three transactions to Capital One as fraudulent on 24 October 2024. The transactions totalled £587.77 and had taken place the day before on 23 October 2024 in another country.

Capital One said it wouldn't refund them because they had been done using Mr A's genuine card and Personal Identification Number ("PIN") – and based on what he'd told them – he still had the card and no one else knew his PIN. So Capital One thought the transactions were likely authorised by Mr A.

Following a complaint, Capital One still refused to refund the transactions. So Mr A referred his complaint to our service.

An Investigator considered the circumstances. She said, in summary, the transactions had been made using Mr A's genuine card and PIN. She didn't think the card had been cloned as Mr A had suggested. And given there was no explanation for how someone could have used Mr A's card and PIN without his knowledge, she didn't think Capital One had treated Mr A unfairly by holding him liable for the transactions.

Mr A didn't accept the Investigator's findings. He said, he didn't think Capital One had investigated the transactions enough and he didn't think chip and PIN technology was as secure as claimed.

As Mr A didn't agree, the complaint's been passed to me to decide.

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.

While I've considered everything both parties have provided, in my decision I've focussed on the points most relevant to the outcome of this complaint.

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. The Payment Services Regulations also make provision for the Consumer Credit Act 1974 to apply, and where a credit facility has been used, the relevant legislation is section 83 of the Consumer Credit Act 1974.

Mr A has provided evidence he was not in the country where the transactions took place. But this doesn't automatically mean he can't be held liable for them.

Capital One has provided evidence Mr A's genuine card was used to make the three disputed transactions. I say this because Capital One's evidence shows the chip in Mr A's card was read during the disputed transactions. Mr A thinks the card must have been cloned. But it's not generally thought possible to copy the chip on the card, and our service hasn't come across any cases where we felt this was a likely explanation of what happened. I haven't seen any persuasive evidence this is what happened in this case. So, I'm satisfied these transactions were made using Mr A's genuine card.

Capital One's evidence also shows the correct PIN was used to authenticate the transactions. Mr A has told us he still had his credit card after the transactions had taken place, and no one else had access to it. He's told us his PIN wasn't written down anywhere and no one else knows what it is. Mr A says he only views the PIN in the app.

Mr A doesn't think Capital One have investigated the transactions sufficiently but based on the information it has provided to our service, I'm satisfied this is the usual information I'd expect to see.

The first transaction was for £254.64 and was made at 12.47pm on 23 October 2024, to a merchant, A. The other two transactions were made at a different merchant, F, for £166.15 and £166.98, at 1.07pm and 1.11pm respectively on the same day.

The last undisputed use of Mr A's card was at 3.39pm on 20 October 2024. This was also a chip and PIN transaction. I don't find it likely that Mr A was observed entering his PIN during this transaction and then it was used by fraudsters to make transactions three days later in another country. And even if he was, there's still the matter of Mr A's card, which he says was never out of his possession.

Mr A's account had a £6,000 credit limit on it. After the disputed transactions had taken place, his account still had £5,337.50 available to spend. But Capital One's records show no other transactions were made. If someone had cloned Mr A's card – for the purposes of stealing money from him – I would expect them to use as much of the available balance as quickly as possible before the transactions are noticed, and the card is blocked.

Mr A says Capital One didn't notify him of the transactions, which he says prevented him from reporting the activity sooner. And because it doesn't support Apple Pay, this means he's forced to use his PIN with his card – leaving him at risk of it being obtained by others. But, given the value of the transactions and that they were conducted using the card and PIN – I wouldn't expect these to have been flagged by Capital One as potentially being made by someone other than Mr A. And it's for Capital One to decide whether its willing to support the use of Apple Pay and even if it did, this wouldn't mean Mr A would never have to use his PIN again. So I don't think these points make a difference to the overall outcome of the complaint.

For the transactions to have been made without Mr A's involvement, an unauthorised party would need to have obtained Mr A's card and PIN, travelled to another country, made the transactions and then, having returned to the UK, returned the card to Mr A – all without him noticing. These don't seem the likely actions of a fraudster. And, based on what Mr A has told us, there's no plausible explanation for how the card and PIN could have been obtained by an unauthorised party.

Overall, I'm not persuaded the transactions could have been made by an unauthorised party in the circumstances Mr A's described. So I'm not going to require Capital One to refund them.

My final decision

For the reasons I've explained, I don't uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 July 2025.

Eleanor Rippengale
Ombudsman