

The complaint

Mrs M complains about Capital One (Europe) plc's decision not to uphold her dispute about an online shopping order.

What happened

Mrs M made an online shopping order with a merchant (who I'll refer to as 'B' throughout this decision) for around £240 in late September 2024.

Mrs M says the delivery was late and wasn't made in a B branded refrigerated vehicle, but by a third party in an unrefrigerated vehicle. Mrs M complained to B as she considered all of the refrigerated and frozen products were no longer safe to consume, some products had damaged seals, and some products weren't available or had what she considered to be unsuitable substitutions. Mrs M received a refund of around £10 for items that weren't available, but B declined to refund her around £90 worth of items that she disputed for the reasons I've set out above.

As Mrs M couldn't resolve her dispute with B, she contacted Capital One as she'd used her Capital One Mastercard credit card to pay for the shopping. Mrs M looked to claim the full transaction value of around £240 with Capital One.

Capital One said it needed further evidence to submit a chargeback claim on her behalf; and that her dispute didn't meet the qualifying criteria of a Section 75 (S75) of the Consumer Credit Act 1974 (CCA) claim, as no single item within the transaction had a value of more than £100. It went on to consider a Section 56 (S56) of the CCA claim and concluded it wasn't liable to refund her as it didn't consider the evidence supported that there had been any misrepresentation before Mrs M entered the contract.

Mrs M complained to Capital One about its decision and it issued a final response letter in November 2024 in which it didn't uphold her complaint.

Unhappy with Capital One's response Mrs M referred her complaint to our service for review.

One of our investigators reviewed Mrs M's complaint and didn't uphold it. She considered Capital One had handled Mrs M's dispute reasonably when considering the obligations on it. She said it had reasonably decided not to pursue a chargeback claim on her behalf without further evidence; and that it wasn't liable to refund Mrs M under a S75 or S56 claim.

Capital One didn't respond to our investigator's view; Mrs M replied and didn't agree. In summary, she maintained her arguments that Capital One should have supported her with her dispute under the obligations on it. She also raised concerns with Capital One continuing to add interest and charges to her credit card while this transaction was in dispute. Mrs M said she is seeking the following in resolution of her complaint:

- A full refund of the entire transaction as the goods delivered were unfit for purpose and this constituted a breach of contract.
- A refund of all interest, charges and fees Capital One has applied to her account

relating to this transaction.

- An acknowledgement from Capital One and B of their service failings when dealing with her dispute; and a commitment that they will improve their service in future.
- Compensation for distress and inconvenience caused by this dispute and the complaint process, as well as additional costs incurred, particularly given her health conditions and registered disability.

Mrs M asked for an ombudsman's review, so the complaint has 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.

The information in this case is well known to Mrs M and Capital One so I don't intend to repeat this information here. Instead, I've focused my decision on what I consider to be the key points of this complaint. I don't mean to be discourteous to Mrs M or Capital One by taking this approach, but this simply reflects the informal nature of our service.

I would set out that my decision here solely deals with Mrs M's complaint about Capital One; I have no authority to consider B's handling of her dispute, nor to direct it to take any action under this complaint.

I think it's helpful for me to set out from the beginning that having considered all of the evidence I've reached the same outcome as our investigator, for broadly the same reasons. I acknowledge this will be disappointing to Mrs M. I've set out my findings for reaching this decision below under separate headings.

A chargeback claim on Mrs M's behalf

Chargeback is a voluntary evidence based scheme controlled by the card scheme operator (in this case Mastercard) to look to resolve some disputes between cardholders and merchants. As such Capital One, as the card issuer in this process, is bound by Mastercard's rules.

Given the individual circumstances of the dispute, I don't consider Capital One acted unreasonably by declining to raise a chargeback claim on Mrs M's behalf.

I say this because looking at the Mastercard chargeback scheme rules, the relevant dispute condition in the individual circumstances is '*Goods or services were either not as described or defective*'. This dispute condition provides for the quality of the goods not being as described.

This chargeback dispute states various criteria must be met for a claim to be made under this condition. One of the criteria is that '*The cardholder informed the merchant the goods were available for pickup or return*' and that this is '*sufficiently detailed in the supporting documentation*' that would be presented with the claim through the chargeback scheme.

From the evidence available to me, Mrs M has said she told the third party delivery service that she had concerns with a number of the items within the delivery. She also contacted B about her concerns to initiate a refund. However, I've not seen any evidence that Mrs M made B aware that the goods were available for pickup or return.

In fact, Mrs M has said she disposed of the goods rather than store them in an appropriate manner, as she's said a number of the items weren't in a condition she considered were consumable. So, it appears by the time she received B's response these items would no longer have been able to be returned in any event.

Mrs M has provided a couple of pictures of some items that were substituted in support of her claim. However, she hasn't provided evidence of the items that she says were unsafe to consume, such as pictures showing the condition the items were received in, damaged packaging, or missing parts of an item.

While I acknowledge the reasons Mrs M has said she took the actions she did with some of the items, as the card issuer in this process Capital One must adhere to Mastercard's chargeback rules. And as one of the chargeback conditions hadn't been met, I don't consider Capital One acted unreasonably by declining to raise a chargeback claim on Mrs M's behalf.

A S75 claim

Capital One went on to review whether it was liable to consider the details of Mrs M's dispute under a S75 claim.

It concluded that the individual details of the dispute didn't meet the qualifying requirements of a S75 claim; because no one individual item had a value of more than £100.

Mrs M doesn't agree with Capital One's application of the qualifying criteria for a S75 claim. She's said that as the total value of her purchase was around £240 it therefore meets the qualifying value of a S75 claim.

I've carefully considered both parties arguments here; having done so I'm not satisfied the individual details of Mrs M's dispute do meet the qualifying requirements of a S75 claim.

I say this because while I acknowledge Mrs M's argument that the total value of her purchase was around £240, it's the value of each individual item that is considered against the qualifying criteria for a S75 claim. Each item Mrs M bought was individually priced and wasn't part of a package or bundle. As such none of the items Mrs M is looking to dispute had an individual value of more than £100, so no item meets the S75 qualifying criteria.

I note that when Mrs M raised her dispute with Capital One she did so for the total value of the shopping, rather than the value of items she'd disputed with B. However, it still follows that the total value of around £240 was made up of items of which none had an individual value of more than £100.

So, while there is a valid debtor (Mrs M), creditor (Capital One), supplier (B) agreement in place, which is another element of the qualifying criteria of a S75 claim; Mrs M's dispute doesn't meet the qualifying value requirements.

It therefore follows I consider Capital One acted reasonably by informing Mrs M that it wasn't liable to consider her dispute under a S75 claim.

A S56 claim

S56 states that a finance provider is liable for anything that is said by a supplier before the consumer takes out a credit agreement (in this case Mrs M completing her purchase with B). This is as long as there is a DCS agreement in place, regardless of the value of any individual item.

I've already set out above that there was a DCS agreement in place; and therefore, the details of Mrs M's dispute qualify under a S56 claim.

So, I've reviewed if B provided Mrs M with any information that was untrue and that enticed her to enter into the contract with it, which could indicate misrepresentation.

Having done so, I don't consider there is any evidence of misrepresentation; and as such Capital One isn't liable to refund Mrs M under a S56 claim.

I've reviewed B's terms and conditions for its delivery services. These state that instead of using its usual delivery vehicles, its express delivery service is provided by a third party delivery service and delivered by car or bike. I've not been presented with any evidence to indicate that Mrs M was told her express delivery would be completed by a B branded refrigerated vehicle, as she assumed it would be. The terms and conditions also make reference to B aiming to deliver goods within the delivery slot agreed, but that it cannot accept liability if goods are delivered outside of the agreed slot.

Mrs M has said she was unhappy with the quality of a number of items, as well as unsuitable substitutions. She's said the third party courier didn't accept the return of these items, and that she couldn't arrange this with B.

B states within its terms and conditions that for express deliveries its third party delivery service are unable to accept returns; and that returns need to be requested directly with B. The terms and conditions go on to state that for items which are liable to deteriorate or expire rapidly, that a customer must store the items in the manner appropriate to the type of goods (e.g. keep chilled goods chilled) as they must be returned in the same condition. However, as I've set out above, Mrs M confirmed she disposed of the goods as she didn't consider them safe to consume.

So, I've not seen anything to suggest any misrepresentation took place before Mrs M entered the agreement. And it therefore follows I don't consider Capital One is liable to refund her under a S56 claim.

Did Capital One act unfairly or unreasonably in any other way?

Mrs M has made reference to Capital One not meeting its obligations to her under the Financial Conduct Authority (FCA) Consumer Duty; and the Equality Act 2010, due to her being registered as disabled and that she is a vulnerable customer. She's said she feels she's had to navigate multiple barriers with B and Capital One to look to seek a fair outcome to her complaint.

I'd like to assure Mrs M that I've carefully considered her comments; having done so I've not seen anything to suggest Capital One hasn't acted to deliver Mrs M with a good outcome, as per its obligations under the Consumer Duty.

I say this as Capital One obtained details of Mrs M's dispute, provided her with information and its outcome within what I consider to be a reasonable period of time (as evidenced by the contact history I've seen); and explained what further steps she could take if she remained unhappy with its outcome.

The Consumer Duty doesn't mean that Capital One can't reasonably request Mrs M provide information to support her claim, or that a claim or complaint will always be upheld. I've already set out above why I consider Capital One acted reasonably in its handling of Mrs M's dispute, and I've not seen anything to suggest it acted unreasonably when dealing with her complaint.

Mrs M has said that as she is registered disabled, and given her health conditions, that she is a vulnerable customer. She's said Capital One has failed to make reasonable adjustments for her. In other words, it has failed in its duty to make reasonable adjustments under the Equality Act 2010.

I've taken the Equality Act 2010 into account when deciding this complaint – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. If Mrs M wants a decision that Capital One has breached the Equality Act 2010, then she'd need to go to Court.

I've carefully considered Mrs M's concerns here; but I've not seen anything to suggest Capital One hasn't acted fairly or reasonably in its dealings with her, including making reasonable adjustments to remove any barriers to Mrs M using its services.

I say this because as I've set out above, Capital One engaged with Mrs M's dispute, made reasonable adjustments to correspond with her via her preferred communication method, and provided her with updates and an outcome to her dispute and complaint within what I consider to be a reasonable period of time.

Mrs M is unhappy that Capital One didn't freeze interest and charges relating to this transaction while this dispute has been ongoing; and that she was still expected to make payments towards it. I don't consider Capital One's actions to be unreasonable in the circumstances. I've not seen any evidence to suggest Mrs M was unreasonably placed into financial difficulty because Capital One required a minimum repayment of the transaction in dispute; or indeed that she made Capital One aware that she was in financial difficulty because of this dispute.

Had Capital One upheld her dispute – or were I to – it follows that as part of any redress it would have refunded any interest and charges incurred relating to the transaction. But as the complaint isn't upheld, I don't consider it unreasonable that Capital One added interest and possibly charges to a transaction that Mrs M is contractually obligated to pay.

I acknowledge Mrs M did chase Capital One for updates on her dispute; but I consider Capital One did deal with her dispute within a reasonable period of time. So, I've not seen anything to suggest Capital One acted unfairly or unreasonably delayed its consideration of her dispute or complaint.

I acknowledge Mrs M's testimony about the negative impact this dispute, and the ongoing complaint process, has had on her health; and I am sorry to hear this. But I can't reasonably conclude Capital One has caused Mrs M an additional level of distress or inconvenience above what I consider to be reasonably expected when dealing with a dispute of this nature, and when following a complaint process.

Summary

Taking all the above into account, I've not seen anything which leads me to conclude Capital One acted unfairly or unreasonably in its handling of Mrs M's dispute; or her subsequent complaint.

So, it therefore follows I don't consider Capital One needs to take any further action in resolution of this complaint.

My final decision

My final decision is that I don't uphold Mrs M's complaint about Capital One (Europe) plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 12 September 2025.

Richard Turner
Ombudsman