

The complaint

Mrs P has complained that Capital One (Europe) plc (“Capital One”) rejected her claim against it under Section 75 of the Consumer Credit Act 1974 (The Act).

What happened

In 2011, Mrs P agreed for a third-party supplier that I’ll call “T” to install a solar panel system (the system) in her home. The total cost of the installation was just over £8,600 which Mrs P appears to have paid using a card with a different provider. But on 4 December 2011, she also used her Capital One credit card and paid just over £430 towards the system. As Mrs P paid partly for the installation using her Capital One credit card, Capital One may be liable for a breach of contract or misrepresentation of T under the law - but there are time limits and other conditions that apply. I understand Mrs P’s account with Capital One was closed on 10 May 2018.

In June 2023, Mrs P’s utility provider visited her property to change her electric meter, and she says at this time, it informed her that the electrical work for the solar panel system hadn’t been completed correctly. She says this was leading to her electric meter reading increasing erroneously when the solar panels produced energy – leading her to pay increased electricity costs.

In December 2024, she appears to have tried to contact a company that she believed to be T (or connected to T) to raise her concerns over the way the system was installed. Unable to resolve matters with them directly, she contacted Capital One.

Capital One says in February 2025, Mrs P raised a claim under Section 75 of the Consumer Credit Act 1974 (“s.75”) against it for breach of contract as she felt the installation hadn’t been completed correctly.

Capital One considered the claim as a potential breach of contract under s.75 but it also considered sections 56 and 140 of The Act. But it said that her claims were all time barred under the Limitation Act 1980 (the LA), so it wouldn’t consider the claim any further.

Unhappy with Capital One’s response, Mrs P referred the complaint to this service. Mrs P’s complaint was considered by one of our investigators. She felt the claim was in all likelihood time barred under the LA, so it wasn’t unreasonable that Capital One didn’t consider Mrs P’s s.75 claim any further. She later also clarified that she felt Mrs P’s claim had been brought too late under section 140 of the Act. So, she didn’t think Mrs P’s complaint should be upheld.

Mrs P disagreed for a number of reasons including:

- She reiterated that she hadn’t discovered the issue until June 2023 and had complained promptly after this and well within three years of becoming aware of the issue.
- As a layperson, she wouldn’t have known any earlier there was a problem with the way the system had been installed. That the fault was entirely hidden from her and her claim should be considered under exceptional circumstances.

- That she didn't have the opportunity to claim against T, as it became insolvent 18 months after the installation.
- She didn't feel Capital One had treated her fairly by looking at her claim solely as a legal issue and not based on her individual situation.

As the complaint couldn't be resolved by our investigator, I've been asked to make a 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 carefully considered everything provided, for the same reasons as those explained by the investigator, I do not uphold this complaint, and I'll explain why.

Our investigator has explained why we have jurisdiction to consider this complaint, as neither party has disputed this, I don't need to address it again in this decision.

Firstly, it may be helpful to explain that I need to consider whether Capital One – as a provider of financial services – has acted fairly and reasonably in the way it handled Mrs P's claim. But it's important to note Capital One isn't the supplier. S.75 is a statutory protection that enables Mrs P to make a 'like claim' against Capital One for breach of contract or misrepresentation by a supplier because Mrs P paid for the goods and services using a Capital One credit card.

There are certain conditions that need to be met for s.75 to apply. From what I've seen, those conditions have been met, and Capital One also appeared to agree that s.75 applies.

Mrs P said that T breached the contract by not completing the wiring correctly during the installation of the system. So, she says Capital One is jointly liable under s.75. But if Capital One could show the claim was brought outside of the time limits set out in the LA, it would be entitled to rely on the LA as a defence to answering the claim.

I should make it clear however that I'm not deciding if any right that Mrs P may have to bring these claims has expired under the LA - that's a matter for the courts. In this decision I'm considering if Capital One has acted fairly and reasonably in turning down Mrs P's claim.

For a claim for breach of contract, a claimant has six years to bring a claim from when the breach of contract took place. Although Mrs P paid T using her Capital One credit card in December 2011, it seems as if the system might have been installed earlier in November 2011, which is when her certification for the system is dated and when she made her initial payments for it (via a card with a different provider). So, it looks like the system installation (and the alleged incorrect wiring) took place between November and December 2011. As the alleged poor wiring was completed during installation, Mrs P had six years from then to raise her claim against Capital One.

So, for Mrs P's s.75 claim for breach of contract Mrs P had six years from November/December 2011 – to bring her claim. But she didn't try to contact Capital One until February 2025, which was outside of the time limits set out in the LA. Even if we take her first contact in December 2024, with the other company that Mrs P thought was T or related to T, she is still significantly outside the six-year time limit set out in the LA.

So, I think Capital One acted fairly in turning down this claim as it felt her claim was time barred under the LA.

I'd like to point out that I haven't made any findings as to whether Mrs P has suffered a breach of contract at the hands of T. I've only considered whether Capital One has responded to her s.75 claim fairly – and based on what I've seen, and the likely implications of the LA, I think it did.

Although it doesn't seem as though Mrs P raised a claim under section 140, Capital One considered a potential claim under section 140 of the Act, and our investigator also considered it. So, for completeness I've done the same. Section 140 would allow the courts to look at the relationship between Capital One and Mrs P to see if it was unfair on her. And the limitation period allows for six years from the end of that relationship – in this case the credit agreement ended in May 2018. That would mean Mrs P would have to make a claim under section 140 within six years from May 2018. But she didn't make her claim with Capital One until 2025. So, I don't think, like Capital One says, it would have any liability under section 140.

Are there any other reasons why the time limit set by the LA would likely be extended?

I've gone on to consider whether there are any other reasons why Capital One ought to have looked at Mrs P's case differently in response to her claim. I appreciate Mrs P says she wasn't aware of the issues so was unable to raise the matter within six years – either with T directly while it was still trading or against Capital One. But while I sympathise with her position, the LA sets a six-year time limit to bring a claim for breach of contract irrespective of when a consumer is able to discover it. While I don't disbelieve her and can see it would be incredibly difficult for her to discover issues with the wiring independently, I'm afraid, as explained above, she still only had six years from when the breach of contract occurred to raise her claim, which has now passed. It wouldn't be fair for me to compel Capital One to consider a claim that's likely time barred under the LA.

There are other situations where the time limit can be extended, but these provisions don't apply to claims for breach of contract.

I've thought about Mrs P's comments regarding the nature of her situation and her inability to discover the wiring had been completed incorrectly any earlier. She felt this was an exceptional set of circumstances and Capital One should consider her claims due to this.

Unfortunately, the LA doesn't have provisions for exceptional circumstances. So, I cannot fairly conclude that Capital One was incorrect not to consider Mrs P's claim under exceptional circumstances.

Summary

I think that Mrs P's claims under the Act are likely time barred due to the provisions in the LA. So, I don't think Capital One acted unreasonably by explaining this to Mrs P in response to her claim. While I sympathise with Mrs P's lack of awareness of the issues, I don't think this extends the time for her to bring her claim. So overall, I don't think Capital One refusing to consider her claim was unreasonable.

I appreciate Mrs P feels very strongly about this case and she's likely to be disappointed by my findings. I should, however, point out Mrs P doesn't have to accept my decision. She's also free to pursue the complaint by more formal means such as through the courts and ultimately it is for the courts to consider whether any claim is time barred under the LA.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 11 September 2025.

Asma Begum
Ombudsman