

complaint

Miss M is complaining about the way Capital One (Europe) plc has administered her credit card account.

background

Miss M opened a credit card account with Capital One, then known as Capital One Bank (Europe) plc, in 2003. She also took out a payment protection insurance (PPI) policy. Capital One says the account defaulted in June 2010, because Miss M hadn't made various repayments when they were due. And the PPI policy was cancelled, too.

In October 2010, Miss M complained to Capital One about how the PPI had been sold to her. That mis-sale complaint is being dealt with separately, and I'm not expressing any views here about its merits. This decision is just about Miss M's further complaint, which concerns the way Capital One handled her account after she'd made that mis-sale complaint.

Capital One says it replied to Miss M's mis-sale complaint in November 2010, explaining that it wasn't upholding it. But Miss M says she never got any such letter. She says too that she didn't then hear anything about her account, or her mis-sale complaint, until September 2013, when she had a letter from Capital One. That letter said it'd instructed its debt collectors to contact her about paying the account balance.

Miss M says in the meantime she'd assumed Capital One had upheld her mis-sale complaint, and that the balance on her account had been paid off, using the compensation that was payable to her. But Capital One says the reason she'd not been contacted about her debt was that the account had been suspended, while it looked into her complaint – so she still owed the money.

Miss M says that if she'd known back in 2010 that she still owed the debt on the account, she would've made arrangements to pay at least part of it before 2013. But she feels she shouldn't have to pay it all now, after hearing nothing for three years. And she wants compensation for the stress these events have caused her, and the time they've taken up.

Our adjudicator who looked into this complaint felt it shouldn't be upheld. In her view, even if Miss M didn't get the reply that Capital One says it'd sent, she shouldn't have taken this to mean that the mis-sale complaint had been upheld, and her debt paid off. So she thought Miss M still owed the debt on her card account. But she felt Capital One should pay Miss M £300 for her distress and inconvenience.

Miss M disagrees. She feels her complaint about the administration of her account should be upheld. And Capital One doesn't agree it should pay her £300. So the complaint's come to me to decide.

my findings

I've considered all the available evidence and arguments, to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about the sale of PPI on our website. And I've taken this into account in deciding Miss M's case, so far as it's relevant - although as I've said, I'm not looking into how the PPI was sold.

I've decided to uphold part of her complaint. I'll explain why.

Miss M says she didn't get a proper reply from Capital One to her mis-sale complaint in 2010. So she tells us she assumed Capital One agreed with it, had decided to compensate her and had used that money to pay off the rest of her debt on the card account.

But Capital One didn't in my view do or say anything to lead her to think it had upheld her complaint, or was willing to pay her any compensation. Nor, as far as I know, did it ever tell her the debt had been paid or written off. And as far as I'm aware, she didn't take any steps to follow up her complaint letter.

Even if Capital One had upheld her complaint, it's unlikely the compensation would've exactly matched her debt. So she could've expected Capital One to contact her, saying it'd been upheld and either refunding any balance, or letting her know how much she still owed.

She didn't get any contact of that sort from Capital One. She's told us she simply heard nothing. And in those circumstances, I don't think it was reasonable for her to assume that her complaint had been upheld, and that her debt no longer existed - even if, as she says, she hadn't got a final response from Capital One to her mis-sale complaint.

I know Miss M feels strongly, and has put time and effort into this complaint. I've thought carefully about everything she's said. And I realise she'll be disappointed by this outcome. I agree with her that it was unhelpful that she didn't hear from Capital One for almost three years. But on balance, weighing up all that I've read and been told, I don't think it would be fair and reasonable to tell Capital One to treat the debt on her account as no longer owing.

So based on the information I've got, I think Miss M still owes the money. But Capital One tells us that no further interest or charges have been added to her account since it defaulted. And I agree that in the circumstances of this case, it wouldn't be fair and reasonable to add any.

Capital One is able to sell the debt to someone else, if it wishes - as it tells us it has now done. I know Miss M says she'd prefer to deal with Capital One itself. But I don't think it'd be fair for me to tell Capital One that it has to buy the debt back, and do that. Miss M has already in my view been given a reasonable opportunity to agree repayment arrangements with Capital One.

On the other hand, if the investigations into the mis-sale complaint had been completed in November 2010, as Capital One says, and a response was sent not upholding it, it's not clear to me why the account still remained suspended until 2013, when a 'new' letter was sent out. And anyway, as far as I know it didn't contact Miss M at all about her account, during the three years it was frozen. So I can see that suddenly getting a letter out of the blue, about repaying the debt, may've caused her some distress.

So like our adjudicator, I don't think Miss M was treated fairly in that respect. And in my view it's fair and reasonable for Capital One to pay Miss M £300, to reflect her trouble and upset.

As I've said, I'm not commenting in this decision on Miss M's complaint about the sale of the PPI. But I see that our adjudicator who looked at that complaint didn't think it should be upheld. And at least up to now, Miss M hasn't responded disagreeing with that assessment, or providing further information or comments about it.

putting things right

For the reasons I've explained, Capital One is to pay £300 to Miss M. But I'm not upholding the rest of her complaint.

my final decision

I'm upholding Miss M's complaint in part. Capital One (Europe) plc is to pay her the sum of £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 5 September 2016.

Chris Langford
ombudsman