

complaint

Miss A complains that the charges applied to her credit card account between 2002 and 2005 are unfair. Miss A has explained that she was struggling with her finances and she feels that Capital One (Europe) plc did not respond sympathetically to her financial difficulties until after she entered into a debt management plan with a third party.

background

Our adjudicator was not persuaded that Capital One treated Miss A unfairly. Whilst recognising the difficult circumstances Miss A had experienced, our adjudicator said Capital One was not automatically obliged to refund charges that had been correctly applied, even in cases involving financial difficulty.

Miss A did not agree, and asked for her complaint to be reviewed by an ombudsman.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have reviewed the available evidence, including Miss A's account statements and Capital One's contemporaneous contact notes.

At the beginning of February 2002, Miss A's account had a credit limit of £3,000, and a nil balance. By July 2002, the account balance was very close to the credit limit. The credit limit was increased to £3,500, but this limit was soon exceeded, resulting in the application of "over limit" and/or "late payment" charges.

For much of the next two years, the account balance remained close to, and occasionally over, the credit limit, with transactional activity limited to occasional modest expenditure and credits intended to meet the minimum payment requirements. The credit occasionally fell short of the minimum payment – or were received late – resulting in further charges. Miss A stopped using the card to make purchases in August 2004.

The rapid growth in the outstanding balance during 2002, and its maintenance at or over the credit limit over the two years that followed, appear from an examination of the account statements to be largely the result of a not inconsiderable amount of discretionary expenditure rather than – at this stage at least – any inherent financial hardship.

Miss A says she entered into the debt management plan in 2005. This is consistent with Capital One's contact notes, which show it being notified of the involvement of the third party debt charity in June 2005. The debt management plan appears to have been accepted, with regular incoming payments made by standing order. Meanwhile, Capital One stopped applying interest and charges. A debit of £50 was applied in August 2005 for card protection, but refunded a few days later.

Overall, I am not persuaded the business knew – or should have known - of Miss A's difficulties before the involvement of the third party debt management charity. I am satisfied that Capital One has taken steps to try to help her, once it was put on notice of her financial difficulties in 2005. In these circumstances, I am not persuaded I can safely conclude that Capital One has breached its duty to treat Miss A fairly and positively.

my final decision

Miss A has succeeded in repaying the outstanding balance on her credit card over a number of years. However, for the reasons set out above, I am not persuaded that Capital One (Europe) plc has failed to meet its obligations to treat Miss A positively and sympathetically. As a result, I do not consider I can fairly require it to do more than it has already done. My final decision, therefore, is that I do not uphold this complaint, and make no order or award in favour of Miss A.

Jeff Parrington
ombudsman