

## **complain**

Ms T complains that Capital One (Europe) plc failed to meet its obligations to assist her when she was having financial difficulties. She wants a refund of all the interest and charges taken from her credit card account.

Ms T is represented in her complaint by her daughter, Miss T.

## **background**

Ms T had a credit card account with Capital One. In 2005 she became ill and unable to continue working. Her income reduced substantially as a result, and from then on Miss T says that it should have been clear to Capital One that her mother was having financial difficulties. She says that it continued to allow her to use her credit card without restriction.

In 2008 Capital One says that it was told by Ms T that she was in financial difficulties, and it attempted to help her by sending out an income and expenditure form for her to complete. It also recommended that she seek help from a debt advisory charity. No response was received to several such letters, and the account was subsequently defaulted. Since then it, and its debt collection agents, has been trying to recover the outstanding debt.

Capital One says it was not told of Ms T's illness until 2013.

Our adjudicator did not recommend that the complaint should be upheld. He concluded, in summary, that Capital One had met its obligations under the Lending Code to treat customers in financial difficulties positively and sympathetically, once it became aware of those difficulties in 2008. He was also satisfied that it had not been aware of Ms T's medical issues until 2013.

On behalf of her mother, Miss T has not accepted the adjudicator's conclusions. She says, in summary, that Capital One should have identified from the conduct of her mother's account from 2005 onwards that she was having financial difficulties, that her mother had told it about her illness several times (and it had simply not noted this in its records), and it was not her mother's fault if the debt advisory service her mother had consulted in 2008 had not contacted Capital One on her behalf. She feels that Capital One could, and should, have done more to help her mother.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Having done so, I have reached the same conclusions as the adjudicator, for broadly the same reasons.

There is no obligation upon a lender to identify when a customer is in financial difficulties. It does not have the full picture of a customer's circumstances to be able to make an informed judgement. Instead it is for a customer to tell a lender that they are having difficulties. At that point the lender is expected, under the relevant code of conduct, to treat them positively and sympathetically in trying to assist them through those difficulties.

I am satisfied that Capital One was not told that Ms T was in financial difficulties between 2005, at which point the balance on her card account was cleared, and 2008. When it was made aware of those difficulties it did what I expect it to have done in those circumstances – tried to obtain information to enable it to assess Ms T's exact financial position, referred her to suitable debt advisory charities, and defaulted the account promptly to avoid further interest and charges. If neither Ms T nor a debt advisor then contacted Capital One I consider it to have acted fairly and reasonably in the trying to obtain repayment of the outstanding debt. There is no obligation under the relevant code of conduct for a lender to write off the debt in such circumstances, or to refund past interest and charges.

I am also satisfied that Capital One was not formally told of Ms T's health problem until 2013. I accept that she may have mentioned it to Capital One staff in the past, but unless she requested that it be formally taken into consideration as part of the management of her account, I do not consider it fair and reasonable for such mention to have resulted in Capital One immediately suspending the account's operation.

Capital One has already reduced the outstanding debt by £200 as a gesture of goodwill. I do not consider this to be an admission of error in the management of Ms T's account, as her daughter suggests.

It follows from this that I am satisfied that Capital One has acted fairly and reasonably in its conduct of Ms T's account, and that I do not find it to be in breach of the relevant code of conduct. It is therefore not appropriate for me to require it to refund the interest and charges on her account.

### **my final decision**

My decision is that I do not uphold this complaint.

Malcolm Rogers  
**ombudsman**