

complaint

Mrs F complains about Capital One (Europe) Plc ("Capital One") over its handling of a payment protection insurance refund. Capital One paid Mrs F her PPI compensation twice in error and when the error was corrected this left Mrs F in significant debt. She wants this debt to be reduced or written off.

background

I set out the background to this complaint in a provisional decision, issued in April 2019. A copy of that provisional decision is attached.

In that provisional decision, I explained why I thought that Capital One had made mistakes in its handling of a PPI refund, and subsequently in its handling of a late payment marker which had been added to Mrs F's account as a result of the first issue.

I explained that due to the first issue, Mrs F's account had been wrongly credited by around £2500, which temporarily resulted in a credit balance of £837. This was then transferred to Mrs F and she spent it, believing it to be rightly hers.

Capital One then identified the error and re-debited Mrs F's account, leaving her around £2500 in debt, when she had previously been reducing her credit card debt.

Following this, Capital One reported a late payment against Mrs F's credit file. It subsequently noticed and agreed to remove this, but did not do so until earlier this year.

In my provisional decision I set out that in order to put Mrs F back in the position that she had been in before Capital One's errors I thought that Capital One should effectively 'write off' the credit balance payment it had wrongly made to Mrs F (of £837). This would require Capital One to reduce the debt Mrs F has outstanding by £837.

I also thought that Capital One should pay to Mrs F £300 compensation for the confusing information it has provided to her throughout, and for its wrong reporting of a late payment, which it then failed to correct for more than 18 months.

My provisional decision was shared with the parties and their comments invited.

Mrs F has indicated that she accepts my decision.

Capital One has not accepted my decision and has made submissions arguing against the provisional award.

These are broadly:

1. That Mrs F knew what the value of her PPI refund was in September 2017 and so should have known that it was not sufficient to clear her debt and leave a balance of more than £800;
2. That Mrs F should have known that the PPI refund was to be sent to her claims management company, and that it was an error for the credit balance to be sent to her;
3. That if Capital One 'writes off' the £837 that was wrongly transferred to Mrs F this means that she will have received it 3 times; and
4. Overall, that the award is disproportionate, as Mrs F received the benefit of the money.

my findings

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

I understand that, looking at the matter in hindsight, Capital One believes that Mrs F should have been aware of what PPI refund was coming to her, how much she would receive after her claims management company had made any deductions. I also understand that Capital One continues this logic to think that Mrs F should have known that her PPI refund would not have been sufficient to leave her in a credit balance. Capital One therefore does not think it credible that Mrs F believed that the credit balance was rightly hers.

I do not agree that this was obvious, and the statements and explanations that I have seen from Capital to Mrs F did not help to clarify what had happened. The statements discuss payments and cancellations, moving her balance from a negative balance to a credit balance across more than one statement. I think it reasonable, in the circumstances, that Mrs F accepted the information, and confirmation that was given to her by Capital One.

That explanation was that she was in credit, and Capital One then agreed to pay it to her. I have previously indicated that I accept that Mrs F acted in good faith when receiving and spending the funds, and that given that she had spent a long time reducing her debt I do not think it likely that she would have spent money which she thought was in her account due to an error.

In respect of whether Mrs F should have known that any PPI refund should have been sent to the claims management company rather than directly to her, I do not think that this would have been obvious either. Bearing in mind that the PPI claim would have taken place over an extended period, I think it likely that most people would forget the terms that they had signed up to at the beginning of the relationship with a claims management company and, unless they used such companies regularly, would often rely on the financial business to know how the process usually worked.

Capital One has stated that they think that my provisional decision would mean that Mrs F has received the £837 credit three times. That is not the case.

Mrs F received her PPI refund, via the claims company, quite properly. Mrs F then received the £837 credit again when she was wrongly put into a credit balance and it was transferred to her. This was then effectively cancelled out by Capital One reversing the duplicate refund and putting Mrs F back into debt.

Finally, Capital One thinks that the total award is disproportionate. I understand that view, given that Mrs F received £837 more than she should have done, but as I have concluded that she received and spent it in good faith, I do not think it is fair or reasonable for Mrs F to carry that additional debt, when it was not due to her fault.

I therefore think that the best way to put Mrs F into the position she would have been in, but for the errors, is for Capital One to 'write off' the equivalent amount (£837) of Mrs F's debt as it wrongly released to her and encouraged her to think was hers to spend.

When applying this total reduction, Capital One can take into account any credits which have already been applied to Mrs F's account in relation to this complaint.

I also provisionally decided that Capital One should pay to Mrs F £300 compensation to reflect her distress and inconvenience at the confusing information, and the impact upon her credit record from Capital One's wrong reporting of a late payment, and then Capital One's failure to correct that reporting.

The award of compensation for distress and inconvenience is in line with other awards we would make in similar circumstances and I do not think that overall the award is disproportionate.

my final decision

As a result, whilst I acknowledge and understand Capital One's arguments, I adopt my provisional decision and reasons, along with the reasons above, as my final decision.

I therefore uphold Mrs F's complaint and direct Capital One (Europe) Plc to:

- Write off a total of £837 of Mrs F's outstanding debt (the total to be deducted can include any credits already made to Mrs F's account) and
- Pay to Mrs F £300 compensation for her distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 8 November 2019.

Laura Garvin-Smith
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