

complaint

Mr O complains that Capital One (Europe) plc has when it recorded information on the Credit Industry Fraud Avoidance System (CIFAS) database about him.

background

Mr O's Capital One credit card received a £999.99 credit on 15 February 2016. The payment was made using a stolen debit card. Capital One blocked Mr O's account. Later it closed the account, and placed a CIFAS marker on to his credit file.

Mr O is unhappy about this. He complained that Capital One recorded two pieces of information about him. But Capital One has confirmed that it only recorded one piece of information. He also complains that Capital One didn't do enough to protect his account or help him.

Mr O says he didn't realise what had happened until he tried to log on to his Capital One account on 23 February 2016. When he couldn't log on he called customer services. Mr O says that the person he spoke to asked him to say whether he was aware of several transactions. One of the transactions was a credit for £999.99. Mr O said the transaction should be genuine as he was expecting a £1,000 credit from a family member. But he didn't recognise the other transactions that were discussed. He says the person he spoke to referred to previous calls he had had with Capital One. But he told it he hadn't spoken to it in the previous 30 days. He thinks those calls were made by someone pretending to be him. He says the person pretending to be him said that he worked somewhere he didn't any more, and that the calls were made from a phone that didn't belong to him.

Mr O says he had the same problem with another credit card in January 2016. And the other credit card provider helped him resolve the issue.

Mr O was asked to provide Capital One with proof that the family member had made the £999.99 payment. But he couldn't provide this. He says the family member was unwilling to provide him with an account statement or any other form of proof. And it now turns out that the family member hadn't made the payment.

Our adjudicator didn't think Mr O's complaint should be upheld. She thought he was aware of the £999.99 payment. And that Mr O has been inconsistent about where the money he thought he was being paid was coming from. She thought it was unlikely that a third party would credit Mr O's credit card as part of an attempt to defraud him. And she noted that Mr O had his credit card with him when he called on 23 February 2016. She couldn't see how his card and other security details had been compromised.

Mr O disagreed and asked for his complaint to be reviewed.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And I agree with what the adjudicator has said for broadly the same reasons.

I appreciate that Mr O is adamant that he wasn't involved in the fraud. But I understand why Capital One acted as it did. It knew the payment had come from a stolen card, and it wasn't provided with evidence to back up Mr O's assertions that he was entitled to the money. So I don't think Capital One made a mistake when it recorded information on the CIFAS database.

Mr O wants Capital One to remove the information it recorded on the CIFAS database. But I don't think it would be appropriate for me to require it to do that. That's because on balance, I'm not persuaded that Mr O was the innocent recipient of the payment. Like the adjudicator, I think it's unlikely that an unknown third party would transfer £999.99 from a stolen debit card to his account if that person didn't have the ability to use the money. Mr O says his card was re-issued in December 2015. So it could've been compromised in some way before he received it at this time. But there's no evidence to support that suggestion. I also think that if it had been compromised at that time, the person that had compromised it would've acted quickly to make use of it. But the evidence doesn't support that either.

I appreciate that Mr O says another one of his credit cards was targeted in January 2016 when a payment was made into that account. But we've been in touch with the relevant credit card provider. And it appears that it didn't investigate the matter fully. It just returned the money in accordance with Mr O's instructions.

I also appreciate that Mr O says he didn't call Capital One in the month before he called it on 23 February 2016. And that he has provided evidence to show his whereabouts when Capital One was called by "him" on 16 and 17 February 2016. But that evidence isn't conclusive.

In light of all I've said, and bearing in mind everything that's been said and provided, I don't require the bank to remove the information it has recorded. I appreciate that my decision will come as a disappointment to Mr O. But for the reasons set out above, I don't uphold this complaint.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 28 December 2016.

Laura Forster
ombudsman