

The complaint

Mr R complains Capital One (Europe) plc has made him liable for transactions he didn't carry out or authorise. He also complains about the way Capital One (Europe) plc handled his claim and the distress it caused him.

What happened

Mr R has a credit card account with Capital One.

Mr R called Capital One on 12 December 2022 to say that he'd lost his card the previous day and that there were ten transactions totalling £175.10 that he didn't recognise. The disputed transactions all took place on 12 December 2022. Capital One agreed to investigate.

Capital One initially refunded the transactions but having looked into Mr R's claim further it decided to hold him liable for the transactions he'd disputed. Mr R complained about this, and complained that, for example, he'd not received Capital One's email telling him that it had decided to hold him liable. Mr R said that the transactions weren't his, so he wasn't going to pay charges relating to them.

Capital One looked into Mr R's complaint and agreed that its customer service hadn't been as good as it could have been at times. However, Capital One, having looked into Mr R's complaint, said that it couldn't accept his fraud claim and that he was, therefore, liable for the transactions. Mr R was very unhappy with Capital One's response and complained to us.

One of our investigators looked into Mr R's complaint and said that they didn't think it was unfair of Capital One to hold him liable for the transactions he'd disputed. Mr R remained unhappy and asked for his complaint to be referred to an ombudsman. So, his complaint was passed to me.

What I've decided – and why

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

I've listened to various calls Mr R made to Capital One and I can understand why he's unhappy in this case. The agent he spoke to on 12 December 2022 initially said that the transactions Mr R was disputing were contactless and that was how they'd managed to use Mr R's card fraudulently. They also said that the transactions would be refunded within 24 hours, and I can see that they were. So, I can understand why Mr R would have left that call believing that he'd managed to successfully dispute all ten transactions.

I can see from the evidence provided that not all of the transactions were contactless, and that several of them were carried out using Mr R's genuine card and PIN. Mr R had told Capital One that he'd lost his card – the following month he said that it must have fallen out of his pocket after he'd used it to buy a take-away when he was running as it was raining. So, there's a possible explanation for how someone else had Mr R's card. He had also told

Capital One that he'd written his PIN number on his card – something he was advised against doing as that's contrary to the terms and conditions of the agreement he signed with Capital One. He later explained that he has problems with his memory sometimes – due to anxiety and depression, amongst other things – but as Capital One pointed out he could always look up the PIN in its app. I've seen evidence that Mr R used Capital One's app on a regular basis, so I agree with Capital One that this explanation doesn't make complete sense. Capital One also rightly pointed out that Mr R could have blocked his card using the app – which would be a sensible thing for someone to do if they'd lost a card on which they'd written their PIN – and could have rung them too. But I can see Mr R didn't do this as soon as he became aware of what he says were transactions he'd not carried out himself or authorised. I say this because I can see, for example, that his banking app was accessed throughout the time that the transactions were taking place. I can also see that no attempts were made to use the "lost" card after it was blocked.

In short, although Capital One hasn't always been clear as to why it's holding Mr R liable for the transactions he's disputed, I don't think it acted unfairly when it said it didn't accept that he'd written his PIN on his card, that he was using his banking app whilst the disputed transactions were taking place and that he didn't report them as soon as he could. In the circumstances, I don't think it acted unfairly when it said it didn't accept that he hadn't carried out these transactions or authorised them. It follows that I don't think it acted unfairly when it said that it was going to hold him liable for them. To date Mr R has refused to repay the balance on his credit card that relates to the transactions he disputed. Capital One has explained the consequences of this.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 July 2023.

Nicolas Atkinson
Ombudsman