

The complaint

Mr F complains Capital One (Europe) plc (Capital One) recorded a default on his credit file without prior notification.

What happened

Mr F says in November 2022 he telephoned Capital One to request some financial assistance with his credit card account, as his income was uncertain at that time, which it agreed to. Mr F says Capital One sent confirmation of this arrangement and statements by way of email, his preferred method of communication, but in May 2023 he received without prior notification, a letter from Capital One informing him his credit card account had been defaulted.

Mr F says he rang Capital One on receipt of this letter to try and put matters right, but it refused to help and defaulted his credit card account. Mr F says he never received any prior notification of this from Capital One and it isn't able to provide any proof these letters were sent. Mr F says Capital One had a responsibility to either send such important notifications by email or by recorded delivery, but it did neither which meant he hadn't been treated fairly.

Mr F wants Capital One to remove the default from his credit file.

Capital One says during the telephone call in mid-November 2022 the agent explained to Mr F, that if no payments were made to his credit card account while the breathing space arrangement was in place, the account could still default. Capital One says it wrote to Mr F to the address it held on file prior to the default being issued, and it's not its standard practice to send these notices by recorded delivery. Capital One says it has applied the default correctly.

Mr F wasn't happy with Capital One's response and referred the matter to this service.

The investigator looked at all the available information but didn't uphold the complaint. The investigator felt Capital One had provided sufficient evidence to show it had sent the appropriate notices and letter of default to Mr F in writing, and it had no obligation to send these by recorded delivery. The investigator says during the phone call in mid-November 2022, it was made clear by Capital One's agent, that Mr F's credit card account could default if no payments were made to it.

The investigator says because Mr F had missed six monthly payments to his credit card account Capital One was entitled to issue the notices of default when it did. The investigator explained it wasn't his role to determine if Mr F had received the letters from Capital One, only that he was satisfied those letters and notices of default had been sent – which he was and therefore didn't feel Mr F had been treated unfairly.

Mr F didn't agree with the investigator's view and asked for the matter to be referred to an ombudsman.

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.

Having done so, I won't be upholding this complaint and I will explain how I have come to my decision.

I can understand it would have been upsetting for Mr F to learn his credit card account with Capital One had been defaulted, when he says he had no prior notification of this.

When looking at this complaint I will consider if Capital One acted reasonably when it defaulted Mr F's credit card account in May 2023.

Both parties have provided this service with comprehensive details of the course of events here and while that has proved helpful, I won't be commenting on every point made as I don't feel it's necessary in order to come to a full and impartial decision here. That's not to say I haven't considered everything said – I have. But it's just that I don't need to comment on each individual point here in order to reach a decision on what's fair and reasonable.

Mr F's complaint centres around the fact he didn't receive any prior notification from Capital One before it issued its letter advising him that his credit card account had been defaulted in May 2023. Mr F feels strongly that any letter of this type should have been either sent by his preferred method of communication – email, or by recorded delivery.

I understand the points Mr F makes here but I'm not fully persuaded by his argument, and I will explain why. The first thing to say is I have listened to a call recording of a phone call Mr F made to Capital One in mid-November 2022. In that call, the agent explains to Mr F while a breathing space arrangement had been agreed, if no payments were made to his credit card account, not only would those missed payments be recorded on his credit file, but the account would also ultimately default, which Mr F acknowledged.

During that call Mr F explained the financial difficulties he was experiencing would be resolved in the new year and only needed two months support – but I can't see that Mr F made any further payments to his account before it was defaulted or ever contacted Capital One to let them know about his financial situation, especially if it hadn't improved. I say this because in the confirmatory letter sent by email by Capital One to Mr F regarding the arrangement that had been put in place, it informed him of the importance of letting them know of any changes to his financial circumstances.

It's reasonable to say it would be Mr F's responsibility to keep Capital One aware of any changes to his financial circumstances, given he had informed them in November 2022, that his financial problems would improve early in the new year.

Mr F says he never received any prior notice of the default from Capital One, but this service has been provided with copies of five letters sent by Capital One from February 2023 through to May 2023 when the credit card account was finally defaulted. These letters included confirmation of his credit card suspension, notices of arrears and the actions needed to be taken to avoid a default and a final notice of default – I can see these letters were addressed correctly.

While Mr F may not agree, when businesses like Capital One issue letters regarding the default of an account these are expected to be sent by formal letter and this is what happened here. Capital One's process on these occasions is to send these letters by standard mail and I'm satisfied that is reasonable here and it's not for me to tell it to change

that process and that these must be sent by recorded delivery or email. Here Capital One have provided evidence from its back-office systems, that records the letters regarding the default notice and the default itself were sent to Mr F – with that in mind I am satisfied in all probability these letters were sent and I can't hold Capital One responsible for the fact these weren't received by Mr F.

So here, Capital One have issued the correct notices to Mr F and it has an obligation to correctly record its customer account activity with the relevant credit reference agencies and given I can't say it has made a clear error in doing so, I can't tell it to remove the default marker.

With that in mind I can't say Capital One have treated Mr F unfairly and while he will be disappointed with my decision, I won't be asking any more of it here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 6 February 2024.

Barry White
Ombudsman