

The complaint

Mr M complains that Capital One (Europe) plc unfairly defaulted his account when he was maintaining his payments on a payment arrangement.

What happened

Mr M opened an account with Capital One in 2012. He has explained that he experienced financial difficulties in 2021 due to ill health meaning he was not working for a period of time. He says he contacted Capital One about his situation and a payment arrangement was set up which he maintained. In 2022, Mr M was able to get a new job and had planned to go back to making his full payments but found his account had been defaulted. Mr M says this shouldn't have happened as he had maintained the agreed payments and kept Capital One informed of his situation. He also said he didn't receive a formal letter of default action.

Capital One issued a final response letter dated 21 June 2022. It said that it spoke to Mr M on 8 March 2022 and his account was set on a breathing space arrangement. Mr M was behind with his payments at the time, and he was told this was being reported to the credit reference agencies. An informal arrangement was set up and it was explained that the account could still be defaulted. It said Mr M's payments weren't enough to meet the minimum repayment amounts, so his account fell further behind, and a default letter was issued on 2 May 2022. As the payment set out in the default letter wasn't made the account was defaulted in June 2022. It noted that Mr M had said he hadn't received certain letters, but it confirmed these had been sent.

Our investigator didn't uphold this complaint. She said that Capital One had acknowledged Mr M's situation and put an arrangement in place because of this. She said Capital One had told Mr M that his account could still be defaulted and that it had acted in line with the account's terms and conditions.

Mr M didn't agree with our investigator's view. He said that he was able to get a job quite quickly and continued to pay the amount Capital One had set for him. He said he was told the payment arrangement would run for six months and then he could go back to his full payments, but his account was defaulted before then. He said he was led to believe that by maintaining the agreed payments he wouldn't be defaulted, and he reiterated that he didn't receive the default letter.

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 understand why Mr M is upset that a default was applied to his account while he was making the agreed reduced payments. But for me to uphold this complaint I would need to be satisfied that Capital One had done something wrong or treated Mr M unfairly.

I have looked through the information provided and can see that Mr M was sent letters in December 2021, explaining that his account had been put on an arrangement called ongoing

breathing space. It said during this period interest, fees and phone calls would stop but that Mr M's account would eventually be restricted and defaulted unless he was able to afford an alternative payment plan or bring the account up to date. Mr M was also sent an income and expenditure form to complete to enable Capital One to get a better understanding of his situation. Having looked at the correspondence at this time I think that Capital One did what was required to try to assist Mr M.

Mr M made offers to settle his account, but these weren't accepted by Capital One. I appreciate this will have been disappointing, but I cannot say that Capital One was required to accept the reduced settlement offer. As it continued to apply the breathing space to Mr M's account, I find it was trying to assist him.

Mr M completed the income and expenditure form and sent this to Capital One. He called Capital One after sending this in and he explained he couldn't make his payments at the time but that he would be looking to return to his full payments in due course. On the call it was noted that Capital One had accepted the offer of payments of around £25 a month based on Mr M's declared income and expenditure details. It was explained that the payments would reduce his balance but that this wasn't a formal payment plan as the payment wasn't enough. It was explained that missed payments would be reported to his credit file and that the account could still be defaulted. It was said that a letter would be sent in advance of this.

Based on this call, I find that Mr M was given the details he needed to be aware that while his payment amount had been accepted information would be being sent to his credit file. The letter sent dated 8 March 2023 explained that Mr M would still receive important messages such as information about possible default and that if received these letters still apply.

The payments Mr M was making towards his account at this time didn't meet the minimum required payments for Mr M's account, therefore the arrears continued to build. Mr M was sent a letter dated 7 April 2022 saying that he had permanently lost use of his card and that his account could default within the next two months. The amount needed to clear the arrears was set out and it was explained that the minimum payment amount would then need to be paid to stay on track. As Mr M didn't clear the arrears on his account a default notice was issued dated 2 May 2022.

The default notice set out what Mr M needed to do in order to prevent a default happening. Mr M has said he didn't receive this. This is unfortunate but as I can see from the account notes provided that the letter was sent, I do not find I can say Capital One was at fault for Mr M not receiving the letter. Mr M didn't make the payment set out in the default notice by the required time and so his account was defaulted.

I cannot say whether Mr M would have been able to source the money needed for the payment requested in the default letter had he received this. But putting that aside, as the letter was sent and Mr M had been made aware previously that his account could be defaulted, I do not find that I can say Capital One did anything wrong by taking the action set out in the default letter.

I know my decision will be disappointing for Mr M but in this case, I do not find I can say that the default was applied incorrectly or unfairly. Therefore, I do not uphold this complaint.

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 M to accept or reject my decision before 23 October 2023.

Jane Archer
Ombudsman