

The complaint

Mr H complains about the lack of support he received from Capital One (Europe) plc when he experienced financial difficulties. He's unhappy that his account was defaulted and terminated.

What happened

In December 2020 Mr H opened a credit account with Capital One.

In March 2023 Mr H missed a payment on the account. He contacted Capital One in May 2023 and said he could bring the account up to date within two months. A payment plan for four monthly payments of £185 was agreed.

Mr H failed to make payments under the plan. In June 2023 Capital One wrote to Mr H advising him that the plan had broken due to non-payment. In June 2023 a restriction notice letter was issued.

Mr H contacted Capital One in July 2023 and said he could afford to pay £50 per month. The agent advised Mr H that the lowest amount that could be accepted was £167 per month over 12 months to bring the account up to date. Mr H wasn't happy with this amount and raised a complaint. Ongoing breathing space was agreed, and a letter was sent to Mr H confirming this.

In July 2023 Capital One issued a letter to Mr H advising that his card had been permanently restricted. It also issued a final response in which Mr C's complaint wasn't upheld.

Mr H contacted Capital One on 28 July 2023 and expressed unhappiness about the restriction on his card.

Mr H contacted Capital One again on 3 August 2023 asking for a copy of the final response. The call was dropped before the conversation ended. Capital One sent a further copy of the final response to Mr H by email on 5 August 2023.

On 21 August 2023 Capital One issued a default notice.

Mr H contacted Capital One on 29 August 2023 and asked to set up an arrangement starting on 29 September 2023. The agent advised Mr H that it wasn't possible to set up a plan that far ahead. Mr H asked to be transferred to complaints, but the call was dropped before transfer.

Mr H set up a payment plan via the mobile app for 10 monthly payments of £201 with the first payment being due on 18 September 2023.

Mr H contacted Capital One on 30 August and said he'd been forced to set up a plan the previous day and that the plan would fail as he couldn't afford it. A further complaint was logged.

On 31 August 2023 a final response was issued to Mr H partially upholding his complaint.

Capital One said it hadn't been able to set up a repayment plan for Mr H's requested date as there was a 30 day period for when a payment plan could be started. It said the only arrangement that would have allowed Mr H to pay from 29 September 2023 would have been an ongoing breathing space arrangement. Capital One explained that the ongoing breathing space arrangement would allow Mr H to pay what was affordable, but it didn't prevent his card from being permanently restricted or the account from defaulting. Capital One apologised for the calls disconnecting and for some service issues and credited Mr H's account with £100 as an apology for any inconvenience caused.

Mr H wasn't happy with the final response and brought his complaint to this service. He doesn't think that Capital One has treated him fairly. He says that by not allowing him to set up a payment plan he could afford Capital One have failed to provide him with support to repay the balance on the account. To resolve matters Mr H wants to set up an affordable payment plan for three months and for the default to be removed from his credit file.

Our investigator didn't uphold the complaint. He said he thought Capital One had acted positively and sympathetically towards Mr H by freezing interest and charges on the account and by putting him on a breathing space arrangement. The investigator said that Capital One hadn't done anything wrong by defaulting the account. In relation to the service issues, the investigator said the compensation of £100 was fair.

Mr H didn't agree so I've been asked to review the complaint.

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 reviewed the available information about Mr H's account. I can see that it fell into arrears in March 2023 when Mr H missed a payment. Capital One sent a letter to Mr H on 31 March 2023 advising him that he needed to pay £331.34 to make up for the missed payment, any amount over the credit limit and the next minimum payment.

Capital One sent another letter to Mr H on 1 May 2023 advising him that he needed to pay £514.31 to cover his missed payments, any amount over the credit limit and the next minimum payment.

Mr H set up his first payment arrangement on 3 May 2023 for £185 per month for four months with the first payment to be made on 31 May 2023. Mr H didn't make the payment due and the plan failed

I've set out the information about Mr H's account because this is the background as against which Capital One made the decisions that it did. Where a consumer's account falls into arrears, any payment arrangement agreed with the lender should only be on the basis that the arrangement will bring the account back up to date and address the arrears which have accrued. So a lender would expect a payment proposal to comprise the minimum payment due on the account plus something towards the arrears. If a payment proposal didn't address both the minimum payment and an amount towards the arrears, it would be irresponsible for a lender to agree to it, because there would be a delay in defaulting the account, making the overall situation worse for the consumer in terms of the impact on the consumer's credit file.

The relevant guidance states that accounts should be defaulted once there are three to six months of arrears. So having regard to what was happening on Mr H's account, I'm unable to say that Capital One made an error or treated Mr H unfairly when it issued a notice of

default in August 2023, because the account was over three months in arrears by then with no viable payment arrangement having been agreed.

I appreciate that Mr H feels that Capital One treated him unfairly by not agreeing to the payment proposals he made.

As I've explained above, it would be irresponsible for a lender to agree to a payment proposal which didn't address the arrears. Based on what I've seen, the proposal made by Mr H in July 2023 (£50 per month) wasn't enough. Capital One explained to Mr H that the least amount it could accept on a payment arrangement was £167 per month. Because Mr H told Capital One that he wasn't able to afford this, Capital One placed the account into breathing space and wrote to Mr H to let him know it had done this.

Mr H has said (in his response to the investigators view) that Capital One didn't advise him about the breathing space scheme. He's also said that Capital One didn't stop recovery action whilst he was in breathing space.

I've listened to the call dated 14 July 2023 in which breathing space was agreed. So, I can't agree that Capital One didn't advise Mr H about the scheme. I can see that Capital One confirmed the details of breathing space in its letter dated 15 July 2023. I can also see that in its final response to Mr H's complaint dated 27 July 2023 Capital One advised him that the account was in breathing space. The letter confirmed that breathing space would not show on Mr H's credit file but that Capital One would continue to report any missed payments to the credit reference agencies. It also stated that accounts could be defaulted under breathing space.

Based on what I've seen, I don't think Capital One treated Mr H unfairly by rejecting his payment plan proposal of £50. In the circumstances where Mr H could only afford to pay £50 per month, I think Capital One acted fairly by agreeing breathing space.

Mr H has said that Capital One treated him unfairly by not allowing him to set up a payment arrangement to start on 29 September 2023. I've looked into this. At the time when Mr H made this proposal, a notice of default had been issued on 21 August 2023, which meant that the account was close to defaulting. This meant that the latest date available to start a payment plan was 18 September 2023. It wouldn't have been possible for a payment arrangement to start on 29 September because the account would've been defaulted by then. Therefore, the only other option, in circumstances where Mr H was unable to start the payment arrangement earlier or clear the arrears (which he wasn't) was for the breathing space to continue and for the account to be defaulted. I'm unable to say that Capital One made an error when it did this.

I understand that Mr H feels let down by Capital One. He says that other lenders have accepted his short-term payment proposals. I'm only able to look into the circumstances of this complaint. I can't comment on the policies of other lenders.

Taking all the available information into account, I'm unable to say that Capital One has made an error in its handling of the account. I'm satisfied that it treated Mr H positively and sympathetically by freezing interest and charges and by agreeing breathing space.

In relation to the service issues which Mr H experienced, Capital One has apologised and paid compensation of £100. I think this fairly resolved this aspect of Mr H's complaint and I won't be asking Capital One to do anything further.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 April 2024.

Emma Davy
Ombudsman