

The complaint

Mr A complains that Capital One (Europe) plc unfairly defaulted his card account, and he was sometimes unable to log on to his account.

What happened

Mr A had a Capital One credit card. He started to experience financial problems in about May/June 2018, and contacted Capital One. He stopped making payments at this point. He also contacted them again in October 2018, to advise health condition was impacting his ability to make his repayments. Capital One stopped applying interest to the card and offered Mr A a three-month payment break. Some late payment fees were refunded.

Throughout this period, Capital One was asking Mr A to provide income and expenditure details, so they could assess how best to help him manage his card account moving forward, although these weren't provided. No further card payments were made, and arrears increased. Capital One advised the account may be defaulted if payment wasn't made, or a payment arrangement discussed and agreed. Mr A spoke to Capital One a number of times but didn't provide income and expenditure details during any of these calls. But Mr A did email his income and expenditure details to Capital One a few days before the default deadline, on two occasions. These emails weren't picked up and his account was defaulted.

Mr A made a number of complaints to Capital One throughout this period. He complained about the balance on his card after his medical-related 'no payment' plan expired. He also complained Capital One sent him statements, when he'd specifically asked them not to. And he also complained about Capital One's decision to default his account, when he says he'd made attempts to contact them, including by email, to try and arrange a payment plan.

Capital One accepted they shouldn't have sent Mr A statements and paid £50 compensation to his account to reduce the balance. But Capital One didn't uphold the complaints about how they'd dealt with his account. The 'no-payment' plan was temporary, allowing Mr A to provide income and expense details so a manageable way forward could be agreed. As far as Capital One was concerned, these weren't supplied at that time, so normal recovery processes commenced. And some months later, after admitting they'd made a mistake by saying Mr A hadn't emailed these details, Capital One said the amount being offered - £5 per month - wasn't enough for a payment plan to be accepted in any event. And, there were many months of arrears on the account, so recording a default was the correct thing to do.

Unhappy with this, Mr A brought his complaint to us. Our investigator agreed with Capital One - they'd acted responsibly by providing a payment break when they did and were entitled to register a default given the account arrears. He also thought Capital One's £50 compensation for wrongly sending statements was fair, and Capital One hadn't done anything wrong by asking Mr A to use the email address he used when setting up the account as part of his log-on details. Mr A was unhappy with this response and asked an ombudsman to review his 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.

Mr A has taken issue with two aspects of our investigator's view – the default complaint and the email log-in complaint, so I'll only address these complaints in this decision.

I'll begin with the email log-in complaint. As our investigator explained, Capital One's system doesn't allow them to change user-names for online accounts. And as Mr A used an email address as part of his log-in details when he applied for the card, those details will still need to be used. This is Capital One's process and isn't something I can ask them to change. So, I won't be asking them to do anything further on this point.

I'll now turn to the 'default' complaint. The FCA sets out certain obligations lenders must comply with when faced with a consumer experiencing financial problems. These include listening to a consumer to understand their circumstances, and then discussing how they can help the consumer. And to better understand a consumer's situation, they'd be expected to ask about their income and expenditure. Once a consumer's financial situation is clear, there's a range of measures a business can consider taking to help, including reducing or writing-off interest and charges, and allowing nominal or reduced repayments, or a payment holiday.

These are the steps we'd expect to see in cases where a consumer is in financial difficulty. But we'd also expect a consumer to co-operate with a lender and provide any reasonable information that had been asked for. This includes providing income and expenditure details at an early opportunity – to allow the lender to best understand what they can do to help.

I also need to mention The Information Commissioner's Office (ICO) guidance about when it's appropriate for a lender to register a default. It says when a consumer is at least three months behind with their payments a default may be registered. And it would expect a default to be registered by the time the consumer is six months behind with their payments.

Looking at Mr A's card statements he started experiencing financial problems around May 2018 – this was when he stopped making payments. He contacted Capital One and they asked him to provide his income and expenditure details. These weren't provided, so Capital One didn't offer any additional support measures to Mr A. He continued being asked to make payments (none were made) and interest continued to be added to his card balance.

Mr A then notified Capital One, in October 2018, he had a health condition that prevented him from making repayments. He was again asked to provide income and expenditure details, but this time Capital One immediately stopped interest being charged and said Mr A didn't need to make any repayments for three months. Three penalty charges incurred were also refunded.

I think Capital One acted fairly and responsibly here, in line with the FCA guidelines, and our approach. They gave Mr A breathing space to provide information that would allow them to identify how best to help him moving forward. But Mr A, again, didn't provide the requested information during this three-month period.

I've seen the various arrears letters Capital One sent to Mr A after his agreed 'nil' payment plan expired. It's clear he was made aware defaulting the account was a possibility. He was again asked to provide income and expenditure details, so a payment plan could be arranged. These weren't provided and a Default Notice was sent to Mr A in February 2019. Mr A called Capital One in early March 2019 to try and provide his income and expense

details, but the calls became fraught and were ended. The information wasn't supplied. And I've seen Mr A did then send two emails, containing very basic details, in the days before the default deadline – but these weren't picked up, and the account was defaulted.

So, I'm satisfied Mr A did, albeit at the very last minute, take some steps to provide the information Capital One had requested. I think this should have been picked up, and Capital One's failure to locate/acknowledge these emails prevented Mr A from being given an opportunity to properly discuss his offer. Capital One tell us they wouldn't have accepted £5 per month in any event – however I think this offer was reasonable in this case, given the balance was in the region of £200 (and would take just over three years to clear at that rate).

However, that point is immaterial in terms of the default issue. Even had Mr A's £5 per month offer been discussed and accepted, Capital One would still have been entitled to default the account. Mr A was in breach of his repayment terms and conditions - there had been no payments made for nearly 12 months by this time, and the ICO guidance is clear a lender would be expected to register a default by this time. This being the case, I don't think Capital One has done anything wrong here, and I won't be asking it to remove the default.

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 A to accept or reject my decision before 12 October 2020.

Mark Evans
Ombudsman