

The complaint

Mr K complains that Capital One (Europe) Plc unfairly registered a default on his credit file and made his situation more difficult to deal with due to poor communication.

What happened

In July 2021 Mr K opened a credit card with Capital One, the card had a credit limit of £200. Over the next month Mr K spent £297.15 on the card (including cash withdrawal fees and interest charged) meaning that his account was over the arranged credit limit.

In the following months no payments were made to the card, but interest and late payment fees continued to accrue so the balance increased to over £300. As a result, Capital One issued a notice of default to Mr K on 29 January 2022. At this stage Mr K got in touch with Capital One to try to discuss a way forward, and he asked if Capital One could speak to his mother, Mrs K.

Unfortunately, no agreement was reached to repay the debt, so Mr K's account was defaulted on 2 March 2022. On 7 March 2022 Mrs K was added to Mr K's account as an authorised user so Capital One could speak with her, and a repayment plan of £30 per month was then agreed for the outstanding debt.

But Mr K, and Mrs K as his representative, still felt that the default was unfair, so they raised a complaint with Capital One. Capital One looked into what had happened but didn't feel it had done anything wrong, so as Mr and Mrs K remained unhappy they referred Mr K's complaint to us.

At this stage Mrs K, on behalf of Mr K, also raised concerns with Capital One about whether the credit card was affordable to Mr K when it was taken out. But in their submissions to us Mr K and Mrs K said they would raise that as a separate complaint with our service as Capital One was looking into it as a separate complaint at its end. As a result I will not be addressing any issues of affordability here. I will look only at the issues with the default, and what then happened afterwards, which is what Mr K and Mrs K have asked us to look into.

One of our Investigators looked into what had happened, initially he explained that he felt Capital One had acted fairly as it had made repeated efforts to contact Mr K before issuing the default. But following further input from Mrs K, he agreed that Capital One could have made more effort to discuss things with Mrs K at an earlier stage as Mr K had requested. Capital One also reconsidered what Mrs K had said about this and as a result it offered to remove the default if the outstanding arrears on Mr K's account were cleared.

Ultimately, on 26 September 2022, Mrs K cleared the arrears on Mr K's account and Capital One confirmed it would remove the default, but this was preceded by several weeks of confusion about exactly how the arrears were being calculated. Our Investigator felt this was an appropriate way to resolve the complaint. But Mr K and Mrs K remain unhappy overall with the service Capital One has provided, specifically they feel it has caused additional confusion and stress at an already difficult time, so this complaint has now been referred to me for a final decision.

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've reached the same conclusion as our Investigator, and for largely the same reasons.

When Capital One issued the default notice to Mr K in late January 2022 he had made no payments to his credit card since it had been opened over six months earlier. And I can see that prior to sending the default notice Capital One had made repeated attempts to get in touch with Mr K to discuss his account. So I consider it was fair for Capital One to issue a default notice at this stage given the conduct of Mr K's account.

I can see that Mr K contacted Capital One when he received the default notice, on 4 February 2022. He's said he was unable to get through the automated screening system on the phone as he didn't know his card number but he made contact via an online form and I can see that Capital One replied the same day to say it would give him some breathing space by suspending interest and charges on the account and that someone would call Mr K to discuss his account within a day.

Capital One's notes show that it then tried to call Mr K that same day, but was unable to get through and instead left a message saying it would be able to take him through security without his card number if needed. The next day Capital One also emailed Mr K to reiterate what it had said in its online message about breathing space and the suspension of charges.

Mr K messaged Capital One online again a couple of weeks later, to say he was still trying to get help and hadn't heard from Capital One like he was expecting to. He also questioned whether Capital One would consider waiving the interest and charges applied to his account and asked if Capital One could speak to his mother, Mrs K, to discuss a way forward.

Capital One spoke to Mrs K on 1 March 2022 but was unable to agree any payment plan as it said it did not have authority to speak with her about Mr K's account, it said it would need written or verbal authority from Mr K. On 7 March 2022, after confirming it had authority to speak with Mrs K, Capital One called her and a repayment plan of £30 per month was ultimately agreed for Mr K's account, but by this stage the account had already defaulted on 2 March 2022.

Looking at this sequence of events, I can see that once the default notice was received Mr K and Mrs K were making efforts to try and resolve the arrears on this account. Generally, I consider that Capital One did also make reasonable efforts to discuss things with Mr K, they tried various methods of contacting him, and when he got in touch they were quick to suspend interest and charges to stop his account from deteriorating further. I think the only issue here was that Capital One could, perhaps, have made more effort to discuss things in detail with Mrs K, as Mr K had requested, before defaulting the account. It seems likely that, had it done so, a repayment plan would have been agreed at an earlier stage. So with this in mind, I consider it is fair that, on reflection, Capital One agreed to remove the default once the arrears were repaid.

The issue then is the protracted negotiations around how the arrears had been calculated, and the additional stress Mrs K says this has caused.

On 5 August 2022 Capital One made the offer to remove the default if arrears of £48.56 were paid. On 7 August 2022 Mrs K asked for some clarification of the outstanding arrears.

Capital One provided us with information about how the arrears had been calculated on 11 August 2022. This information was not clear, so our Investigator asked Capital One to call Mrs K to discuss the account to try and resolve her concerns about how the arrears were calculated, Capital One instead asked that Mrs K call them and provided a contact number.

When Mrs K spoke with Capital One, and paid the arrears that had been requested, she still felt that she had not been given a clear explanation of what had happened, and remained unhappy that fees and charges had been applied to Mr K's account. She felt that Capital One were being extremely difficult to deal with and wanted to be compensated for the poor service she'd been provided and how Mr K's complaint has been handled. Unfortunately, Capital One said that by the time Mrs K had paid the originally requested amount, further arrears had accrued due to the time that had passed, so it needed her to pay a further amount to clear these if the default was to be removed.

Ultimately, Mrs K repaid the full balance of the account. And Capital One has now sent her statements and written confirmation that the default has been removed from Mr K's credit file.

Looking at what has happened here, I agree that the way Capital One has tried to explain the arrears has been confusing. And I understand why Mrs K wanted some clarification of what she was going to be paying. But I'm also satisfied that, since March 2022, no further charges or interest have been added to Mr K's account. So the only issue at stake here was how much of the existing debt needed to be repaid in order to have the default removed. And while the reasoning behind how it was calculating the arrears may not have been clear, Capital One was clear about how much Mrs K needed to pay, and it explained that the arrears could change over time. And it then took steps to try and explain how it had calculated those arrears to Mrs K, including sending statements so she could see what had happened with the account.

I also must bear in mind that this is Mr K's complaint and that Mrs K is representing him. So even if I were to make a recommendation for compensation for distress or inconvenience caused by unclear communication about the arrears, that would have to reflect distress and inconvenience caused to Mr K. It appears though that it is largely Mrs K who has been dealing with this issue.

So with all this in mind, I'm satisfied that Capital One has taken appropriate steps to resolve this complaint, and I won't be asking it to do anything more.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 23 February 2023.

Sophie Mitchell
Ombudsman