

The complaint

Mr B is unhappy with the data Capital One (Europe) Plc (“Capital One”) is recording on his credit file, in respect of two credit card accounts he has with it. He feels it’s unfair, inaccurate and is impacting him purchasing a home.

Mr B is represented by Miss C, but for ease of reading I’ll largely refer to Mr B throughout.

What happened

Mr B had two accounts with Capital One. In January 2023, Mr B reached out to Capital One to explain he’d unfortunately lost his job, and although he had a new one lined up to start in March, he was struggling to meet the repayments on his credit card accounts.

Capital One said that the best option for Mr B at this current moment in time was to take some ‘Breathing Space’. Mr B agreed and his account was put into ‘Breathing Space’, meaning he wasn’t required to make any repayments until March 2023.

In April 2023, Mr B called Capital One again, but this time they set up a repayment plan with him. This was to help clear the arrears and bring the account up to date. They went through an income and expenditure assessment and spoke through the terms of having both accounts in a payment plan. Mr B agreed and the call ended.

Then in August 2023, Mr B called to set up another repayment plan with Capital One. One of the accounts was now up to date and could be used as normal, but one was still in arrears, so a further plan was set up for Mr B.

In January 2024, Mr B got in touch with Capital One because he was unhappy there was a missed/late payment marker on his credit report from December 2023. He said it was impacting him being able to get a mortgage. He said he took the same steps with other firms, and they’ve removed any negative markers applied.

There were a number of calls between Capital One, Mr B and his representative, Miss C throughout January 2024. But Capital One issued their final response letter on 17 January 2024 rejecting Mr B’s complaint. In the final response, they said they’ve listened to the calls Mr B has had, and he was correctly advised of the potential impact to his credit file. They explained they have an obligation to report accurately.

Because Mr B didn’t agree, he brought the complaint to our service. An Investigator here looked at things, and they explained why they thought Capital One hadn’t done anything to treat Mr B unfairly. They said because Mr B paid less than the contractual amount during the period January 2023 – August 2023, it wouldn’t be fair to ask Capital One to remove those markers.

Mr B and Miss C responded saying they felt this was unfair because they had the call transcripts and there’s no mention of missed payments in that. Mr B told the Investigator

he'd heard the calls and couldn't find where anything was mentioned about the negative data. Because an agreement couldn't be reached, this case has been passed to me to review and reach a 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'm not upholding this complaint and I'll explain why. I know Mr B will be disappointed with this, and I'm sorry to hear of the struggles he's experiencing when trying to get a mortgage. But I need to consider if Capital One have acted unfairly when recording adverse data on his credit file.

Before considering whether or not Mr B was provided with enough information about the potential consequences of entering into the plans with Capital One, I think it's important to address that Capital One have an obligation to record accurate information to the credit reference agencies (CRAs). This is so that lenders can make an informed decision about their potential customers' ability to repay any credit they may decide to provide.

Based on the statements provided, it appears Mr B missed a payment in December 2022, before getting in touch with Capital One. Then no further payment was received from Mr B until April 2023 after the breathing space had ended, and a payment arrangement was entered in to. When the payment was made in April 2023, the minimum due was £277.07 and the payment Capital One received was for £94.00. So, it's factually accurate that Mr B had missed payments on the account. I don't think therefore they acted unfairly in reporting this to the CRAs.

Mr B had reached out to Capital One for financial support when he was facing a difficult time, and Capital One offered forbearance and treated him sympathetically, in a way that we would expect. As Mr B's account was in arrears as no payments had been made for a number of months, I don't think it was unreasonable for Capital One to have reported this information to CRAs.

I've then gone on to consider whether I think Capital One did enough to make Mr B aware of any potential consequences of entering into the agreements. I appreciate Miss C has provided photographs of the call transcripts and has asked I pay attention to them. And while I have looked at them, I've not found they make a difference to the outcome of the complaint. I say this because I've listened to all calls that took place between Mr B and Capital One. And I think these are first-hand records of what was discussed between Capital One and Mr B, which I consider to be a more accurate reflection of what was discussed, rather than transcripts which provide a summary of the conversations. As a result, I find the call recordings to be more persuasive. The key calls being in January 2023, the second mid-April 2023, and another call in August 2023.

In the call that took place in January 2023, the advisor explained to Mr B *'the breathing space itself won't show on your credit report, but we will still have to report missed payments'*. They went on to explain that this was a short-term option for Mr B and they do have longer term payment arrangements that may help him, but to reach out whenever he's able to afford more or if anything changes. So, I'm satisfied that in January 2023, Mr B was made aware of the implications of entering into 'breathing space', and Capital One explained that missed payments would be reported to CRAs. And I don't think Capital One has acted unfairly by accurately reporting this information to CRAs.

During the call that took place in April 2023, the advisor tells Mr B twice that a payment arrangement will show on his credit file. And then again in the call in August 2023, Mr B asks specifically if he'll be looked at negatively by potential mortgage providers as a result of the payment plans, and the advisor tells him yes but if he'd like more advice about his credit score, he should reach out to either Experian or a debt charity that can advise on credit scores specifically. After this, they ask Mr B if he wishes to proceed with this option despite what he's just been told, and he confirms he does. So again, I'm satisfied Capital One haven't acted unfairly when providing Mr B with information regarding the options he had to consider, and the consequences of entering into a payment arrangement.

I'm satisfied having listened to the calls, Capital One were clear with Mr B what the implications of entering into breathing space and payment arrangements would likely be on his credit file. But, I've gone on to consider whether Capital One did anything else to make Mr B aware of the potential implications on his credit file.

In addition to the calls, Capital One have provided copies of letters sent to Mr B confirming the payment plans. In these letters there's an FAQs section. It contains the following:

How will this payment plan affect my credit file?

We'll update your credit file to show you're on a payment plan. This can be helpful as it shows other lenders that you're making an effort to repay. The number of monthly minimum payments you've missed will also appear on your credit file.

Based on what Capital One have sent, it appears these FAQs were sent to Mr B on at least two occasions. I've checked the address they were sent to, which is the same as the address this service has been provided with for Mr B. So, I think on balance, it's likely Mr B would've received a copy of these.

With the phone recordings and the FAQ letters sent, I'm satisfied Capital One have done enough to make sure Mr B is aware of the potential consequences for his credit file by entering into 'breathing space' and a payment arrangement and therefore I can't fairly say they've done anything wrong.

I acknowledge Mr B and Miss C's comments regarding how other lenders have reacted when they've reached out with similar circumstances, however I can't comment on this. It's my role to decide whether Capital One have treated Mr B unfairly in respect of this complaint he made about it, and in this case I don't think they have.

My final decision

It's my decision that I don't uphold this complaint against Capital One (Europe) Plc as they've not treated Mr B unfairly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 August 2024.

Meg Raymond
Ombudsman