

The complaint

Mr M complains about how Capital One (Europe) plc ('Capital One') handled his credit card account when he was in prison.

Mr M would like the default relating to his Capital One account removing from his credit file, and for Capital One to pay him compensation for what happened.

What happened

Mr M's partner contacted Capital One in April 2024 to say Mr M had unexpectedly been detained in prison. Capital One acted on this information by cancelling Mr M's direct debit and writing to him at the prison's address.

Capital One didn't receive any payments so they added interest and fees to Mr M's account. Capital One added late payment markers to Mr M's credit file and restricted his account.

Mr M's partner gained authority to deal with Mr M's account and raised a complaint. Capital One agreed to refund the interest and fees, and said they'd remove the late payment markers if they received the full arrears within five days. They credited Mr M's account with £50 compensation.

Capital One didn't receive a payment and sent a default notice in October 2024. M's account was defaulted in November 2024.

Mr M, with the assistance of his partner, contacted the Financial Ombudsman Service about his complaint. Our investigator issued two detailed views saying they thought the default was inevitable, but Capital One's handling of the situation didn't meet the standards expected. Our investigator recommended Capital One pay Mr M a further £400 for the distress and inconvenience they'd caused him.

Capital One agreed but Mr M asked for an ombudsman's decision, so the matter came to me to decide.

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 taken into account any relevant law and regulations, the regulator's rules, guidance and standards, codes of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

Having done so I have decided to uphold Mr M's complaint and require Capital One to pay a further £400 to Mr M for his distress and inconvenience. However, I'm not going to ask Capital One to remove the default they've reported to Mr M's credit file. I'll explain why, though my reasons broadly mirror those of our investigator.

I recognise this was an extremely challenging situation for Mr M, and he had limited control over his finances and limited opportunity to contact Capital One directly about his account. I also understand that this is a serious matter as the default will impact Mr M for six years, and he has a young family to support.

I've listened to the call between Capital One and Mr M's partner in April 2024. I don't think it was unfair or unreasonable for Capital One to act on what Mr M's partner told them, given the circumstances. It is often a third party who initially makes contact when someone's in prison, so that communication can be re-established with the customer.

It's clear in the call that Capital One explained they'd need to cancel Mr M's direct debit in line with their process. Mr M's partner said that there may not be sufficient funds to regularly pay out of Mr M's account unless she made payments into it, and her suggestion was to freeze the account. Mr M's partner outlined her minimal income due to being on maternity leave, and that Mr M's money came from self-employment but he was unable to work given his imprisonment. Mr M's partner didn't know when Mr M might be released.

In those circumstances I don't think it was unfair for Capital One to follow their process of cancelling Mr M's direct debit, particularly as there was an indication at the time that there were insufficient funds in Mr M's current account.

I'm aware Mr M subsequently received a tax rebate but I note this wasn't offered to Capital One as a possible source of payment. Mr M's partner said she incurred a considerable debt keeping the family afloat whilst Mr M was in prison, and she'd have prioritised feeding her three children with the tax refund over making payments to Capital One. I can understand this, but I do think that means Mr M's credit card account was very likely to default, given the arrears that had built up.

The Information Commissioner's Office (ICO) sets out guiding principles for businesses reporting arrears, arrangements and defaults. This sets out that by the time an account is at least three months in arrears, and normally by the time an account is six months in arrears, it's generally expected that a default will be registered.

Taking into account the industry expectations here, Mr M's circumstances and the unsatisfied default notice, I can't say that it was unfair for Capital One to have registered the default when they did. I am sorry to disappoint Mr M, but I won't ask Capital One to remove the default in these circumstances.

Capital One accepted that the level of service they provided in relation to Mr M's account fell below everyone's expectations, and they agreed to our investigator's recommendation that they pay £400 to Mr M.

I think that's a fair sum for Capital One's misinformation and the short period of time they gave Mr M to avoid a negative impact on his credit file. I agree with our investigator that Capital One added undue pressure during an already stressful time and that whilst the default itself may have been unavoidable, the lack of communication and support throughout this process resulted in considerable distress to Mr M. So, I think Capital One should pay this sum to Mr M, to fairly resolve his complaint.

Putting things right

Capital One (Europe) plc must pay Mr M a further £400 for his distress and inconvenience.

My final decision

For the reasons I've outlined, I uphold Mr M's complaint and require Capital One (Europe) plc to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 July 2025.

Clare Burgess-Cade
Ombudsman