

The complaint

N complains about the service it has received from New Wave Capital Limited trading as Capital on Tap since 2023.

N is represented in bringing this complaint to us by its director, Mr R.

What happened

Mr R, on behalf of N, entered into a credit agreement with Capital on Tap in July 2009. Between November 2020 and May 2021, Capital on Tap increased N's credit limit on several occasions.

In early June 2023, Capital on Tap contacted N, and Mr R in his capacity as the guarantor, to advise them that the account was in arrears and explained how to make payment to resolve the issue. These letters explained that failure to make the minimum payment due would amount to a breach of contract. Subsequently, a Notice of Default was sent to N on 15 June 2023 and a formal demand for payment was made. Capital on Tap reminded Mr R of his responsibilities as the guarantor if N couldn't make the payments.

As the account remained in arrears, Capital on Tap sent a termination letter to N on 6 July 2023. This letter formally ended the credit agreement between N and Capital on Tap and made a further demand for payment of the outstanding balance. Throughout the rest of July, emails were exchanged between both parties in an attempt to reach a settlement agreement.

On 26 July 2023, Mr R asked Capital on Tap to only correspond with him by letter going forward. Capital on Tap explained that post was not an official contact method for them, and they had concerns that this method of communication could cause delays. Whilst they agreed to make the change, they did advise Mr R they would use alternative contact methods if they didn't receive a response from him to their postal communications.

Capital on Tap's Specialist Support Team wrote to Mr R on numerous occasions between October 2023 and April 2024 with some of these letters crossing over in the post with Mr R's own letters to Capital on Tap. As a result of the correspondence delays, Capital on Tap tried to contact Mr R in other ways.

On 13 May, Mr R called Capital on Tap and complained to them about attempts they had made to call him and emails they had sent him. He said this was a data protection breach.

Capital on Tap investigated Mr R's complaint and sent him their final response to the matter by post on 7 June. They detailed Mr R's complaint points as follows:

- GDPR was breached by Capital on Tap attempting to contact him via the contact details on file as those details are no longer associated with N
- Mr R didn't receive a statutory demand for the outstanding balance
- Mr R didn't receive contact from Capital on Tap regarding the arrears on the account for over 200 days

- Correspondence received from Capital on Tap's Specialist Support Team didn't include the account details, outstanding balance or payment due date
- Capital on Tap haven't responded to Mr R's letters
- Capital on Tap declined to provide a copy of a call recording by post
- Capital on Tap declined to provide a correspondence address for their Cardiff office
- The service Mr R received during a call on 13 May 2024 fell short of his expectations

Capital on Tap didn't uphold all of the complaint points raised by Mr R but they did agree that they could've addressed some of the correspondence issues he raised sooner, and for that, they made a payment of £100 to N as a gesture of goodwill.

In addition, they provided Mr R with the opportunity to make a reduced payment to settle the account if it was made in full within 30 days of Mr R's acceptance. Capital on Tap said they would take no further action if this payment was made.

This letter also contained a USB device with a copy of a call Mr R had requested from them. Mr R was told to call Capital on Tap for the password once he received the USB device.

On 19 September, N's account was sold to a third party as it remained unpaid and in arrears. In early October, Mr R contacted Capital on Tap to discuss their final response letter and ask for the password for the USB device. But he was told that as N's account had been sold, he would need to contact the third party it had been sold to for more information.

Mr R was unhappy with Capital on Tap's response, so he contacted our service. One of our investigators looked into the matter. She thought Capital on Tap's offer of a further £100 to apologise for the password for the USB device not being given to him on the call in October, alongside the original £100 recognising some communication issues, was enough to resolve the matter.

Our investigator provided Mr R with the password for the USB device and updated him on what he needed to do to receive the statements he requested. She also explained that she couldn't look at the guarantor aspect as part of N's complaint and Mr R would need to raise that matter as a separate complaint.

Mr R didn't agree with our investigator's findings and asked for the case to be escalated to an ombudsman, so it has been passed 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.

Having done so, I've reached much the same conclusion as our investigator and for broadly the same reasons. I've focused my comments below on what I think is relevant so if I haven't commented on any specific point, it's not because I haven't considered it, but because it doesn't affect what I think is the right outcome in the circumstances of this complaint.

Arrears notification

Mr R told us N didn't receive any arrears letters from Capital on Tap. Capital on Tap told us they were sent and provided us with copies of the letters it sent to N when payments were missed, along with copies of the account statements which highlighted that N's account was in arrears. These letters were addressed to the same address Mr R provided to us, and this matches N's registered address on Companies House. So, on the balance of probability, I think it is unlikely that Mr R didn't receive any of this correspondence.

Even if Mr R didn't receive the arrears notifications, there was sufficient information detailed on the statements to show there was an arrears balance on N's account. So, I'm satisfied Capital on Tap notified N of the arrears in a timely manner.

Lack of communication/Communication delays

Capital on Tap acknowledged that there were times when they took too long to contact Mr R, particularly between July and October 2023. And for these delays, they have previously credited £100 to N's account as an apology and gesture of goodwill. I'm satisfied that apart from this initial delay, Capital on Tap wrote to Mr R on a regular basis. Mr R says he didn't receive some of those letters, however, the evidence available to me indicates they were sent to the correct address on a consistent basis.

Capital on Tap had previously explained to Mr R that sending letters by post could lead to delays in them being able to assist to him, particularly as only their Head Office in London is set up to receive postal correspondence which is then processed and sent to the relevant department. So, I don't think Capital on Tap can be held responsible for any delays after October 2023, and the payment they've already made to N covered the inconvenience of the initial delays in their communication.

Communication from Capital on Tap's Specialist Support Team

Mr R said correspondence received from Capital on Tap's Specialist Support Team didn't include account details, outstanding balance information or payment due dates which was unhelpful and frustrating. Capital on Tap told us the focus of these letters was to establish whether Mr R required any additional support from them, so that information was not necessarily relevant in these letters.

Having reviewed these letters, I agree that it wasn't necessary for that information to be included, so I don't think Capital on Tap have done anything wrong in this regard.

In addition, there were numerous other letters that were sent to Mr R with this information on them, including account statements. So, I'm satisfied that Capital on Tap wrote to Mr R at the address provided and kept him up to date with information about N's account as well as checking in on his current circumstances.

Capital on Tap's method of communication

Mr R is unhappy that Capital on Tap tried to contact him other than by letter which was the communication preference he had communicated to them. I've seen Capital on Tap's response to this request where they explained that this was not an official contact method of communication for them and where they advised Mr R they would use alternative contact methods if they didn't receive a response from him to their postal communications. This is in line with Clause 25.2 of the agreement between Capital on Tap and N.

I can see that Capital on Tap did their best to adhere to this arrangement. However, the account was in arrears, and they were entitled to seek repayment of this debt. They initially received no response to their letters, so I can't say they acted unreasonably by attempting to contact Mr R using alternative communication methods on the most recent contact details provided to them for N's account.

Password for the USB device

Mr R requested a copy of a call recording from Capital on Tap, and in an attempt to accommodate Mr R's request and communication preferences, they arranged for this to be

sent to Mr R on a USB device. The accompanying letter explained to Mr R that he would need to contact Capital on Tap for the password. By the time Mr R did contact them, N's account had been sold to a third party. And the agent who answered his call advised him to contact the third party.

Capital on Tap have apologised for this error and explained that their agent should've provided the password to Mr R at the time. Capital on Tap have offered Mr R £100 in recognition of this error.

I recognise the inconvenience this caused to Mr R as his query wasn't rectified at the time. However, a notable amount of time had passed since the USB device had been provided to Mr R and N's account had been sold on by the time he called for the password. The agent he spoke to was following the process for accounts that had been sold on to a third party.

In addition, providing call recordings in this way was outside of Capital on Tap's normal process, so it is likely the agent didn't fully understand the request. As such, I agree that a payment of £100 is fair compensation in these circumstances but note that it would've been helpful for the agent to escalate the query at the time it was received.

DSAR request

As our investigator explained, we can't consider Mr R's complaint point about Capital on Tap withholding information about his personal data as part of N's complaint.

Statements

Capital on Tap have agreed to provide N's statements to Mr R once he updates his email address with them to allow the statements to be sent in the most efficient manner. If Mr R is unhappy to do this, Capital on Tap have agreed to send the statements on a password protected USB device. I consider both options to be a fair and reasonable solution to the matter, particularly as Mr R has told us he has had issues with postal correspondence from them.

Putting things right

From my review of this case, I've seen that Capital on Tap made several out of course adjustments to assist Mr R, such as corresponding by post and providing a call recording on a USB device.

They have previously made a payment of £100 to N for the delays in their responses to Mr R and I'm satisfied that fairly reflects the inconvenience caused by those delays.

In addition, Capital on Tap have offered an additional £100 in recognition of the inconvenience they caused by not providing the password for the USB device when it was requested. We would normally expect any settlement to be paid to the account of the complainant (which is N in this case) as it is a separate legal entity to its director. So, if Mr R wishes for the payment to be made into an account other than N's business bank account, he will need to discuss that further with Capital on Tap. However, although Capital on Tap will need some evidence to prove ownership of any other account, I wouldn't expect them to require three months bank statements for payment into an account of a director of N.

In closing, I appreciate that Mr R would also like to be compensated for the distress he told us this matter caused him. However, as this complaint is being brought on behalf of a limited company, N, there is no consideration to be made in relation to personal distress as a result of Capital on Tap's handling of the matter. So, I won't be asking Capital on Tap to take any

additional action in this respect.

My final decision

I uphold this complaint in part and direct New Wave Capital Limited trading as Capital on Tap to make a payment of £100 to N.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R, on behalf of N, to accept or reject my decision before 30 September 2025.

Tara Richardson
Ombudsman