

## **The complaint**

Mr M complains that Capital One (Europe) plc unfairly defaulted his account.

## **What happened**

Mr M has a credit card account with Capital One. Due to financial and personal difficulties, his account fell into arrears. Mr M says he kept in touch with Capital One, had agreed breathing space and never refused to pay. So, he was unhappy to find that Capital One had applied a default.

Capital One didn't uphold Mr M's complaint. It said that it told Mr M that his account could still default while on breathing space. Capital One said it sent Mr M a notice of default at the end of April 2025, but it didn't receive the payment in time to prevent the default. Capital One acknowledged that Mr M said he hadn't received the notice of default, but it was satisfied it sent it to the address it held on file. As Capital One didn't think it had made a mistake, it wouldn't agree to remove the default.

Our investigator didn't uphold Mr M's complaint. She noted that he had not kept up with agreed repayment plans and that his account was in arrears. She was satisfied that Capital One told Mr M that his account might still default. Our investigator didn't think it fair to say that Capital One was at fault for Mr M not receiving the default notice. So, she didn't ask Capital One to do anything in response to Mr M's complaint.

Mr M disagrees with the investigation outcome. He says he wouldn't have just ignored the default notice. Mr M says Capital One didn't tell him during any regular phone contact that his account could be defaulted. Mr M says he is now in receipt of disability benefits but hadn't been working much since February 2025. Mr M says the situation has made his depression worse.

## **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 realise that I have summarised this complaint in less detail than the parties and that I have done so using my own words. The rules which govern us, together with the informal nature of our service allow me to take this approach. But this doesn't mean I have not considered everything the parties have given to me.

I am sorry to hear about the impact the situation has had on Mr M, and I don't want to disappoint him, but like our investigator, I am not upholding his complaint.

Overall, I am satisfied that Capital One responded fairly to Mr M's difficult personal circumstances when it first agreed a repayment plan and then breathing space. Although breathing space involves suspending charges and interest and limits the contact Capital One will make with its' customer, it doesn't suspend the right to default an account where a customer doesn't bring their arrears up to date.

I have listened to the call Mr M had with Capital One in early April 2025 when it offered him 60-day breathing space to allow him to get debt advice from a national debt charity. Capital One explained that it wouldn't apply charges and interest to the account during the breathing space. But Capital One also explained that if Mr M didn't make his monthly minimum payment, it would report this as a missed payment. Capital One also told Mr M that his account could still default, but that it would let him know before this happened. So, I am satisfied that Capital One told Mr M that it may still default his account during the breathing space.

Capital One followed the telephone conversation up in writing on 8 April 2025 and said that it would continue to send important information about Mr M's account if he was at risk of being defaulted. The letter said, "We're legally required to send these and they still apply during the 60-day period". I think that the call together with the letter of 8 April 2025, should have made it clear to Mr M that his account may still default if he failed to make a payment.

As Mr M didn't make a payment or bring the arrears on his account up to date, Capital One sent him a notice of default on 29 April 2025. This gave him until 27 May 2025 to act to avoid termination of his account together with the reporting of a default. Given the way that Mr M had been managing his account, I don't think it was unreasonable of Capital One to send the notice of default.

I appreciate that Mr M doesn't recall receiving the notice of default. In cases like this where the evidence is contradictory, I reach my decision based on the balance of probabilities. That is what I consider is more likely to have happened based on the evidence we hold. Having done this, I find it more likely than not that Capital One sent Mr M the notice of default by post. I say this because it has supplied us with a copy of the notice dated 29 April 2025.

Capital One sent the notice to Mr M at the updated address he provided, which is also the same address we hold for Mr M. I can't blame Capital One for any failure in the postal service. As Mr M didn't bring the arrears up to date by the end of May 2025, I don't consider Capital One was wrong to terminate his account and report the default. And I don't think Capital One acted unfairly when it didn't also contact Mr M by phone before applying the default, as it had already told him it would send him important information if he was at risk of default – which it did.

I note Mr M's point that if he had seen the notice, he could have done something to avoid the default. But he also says that he hadn't been working much since February 2025 and was struggling financially. So, I don't have enough evidence to conclude that Mr M could have avoided the default by clearing the arrears and returning to the full contractual payment by the deadline set. Capital One also sent Mr M a notice of arrears by email in early May 2025, which made clear the consequences of not bringing his account up to date and included information about the impact on his credit file. Again, if Mr M had been able to deal with the arrears, I would have fairly expected him to do so after receiving this notice. The fact he didn't makes me think that he wasn't in a position to avoid the default.

As I don't find Capital One made a mistake when it defaulted Mr M's account, I can't require it to amend his credit file.

### **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 M to accept or reject my decision before 20 November 2025.

Gemma Bowen  
**Ombudsman**