

The complaint

Miss S is unhappy with how Capital One (Europe) plc, trading as Capital One have reported her two credit card accounts to the credit reference agencies (CRAs) when she was unwell. Miss S says, given her circumstances, Capital One have not treated her fairly.

What happened

At the end of January 2025 Miss S called Capital One to explain that due to ill-health she was temporarily unable to manage the payments to her two credit cards. Miss S explained she had recently undergone an operation and her doctor had signed her off for 90 days. Miss S was seeking a hold on both accounts for the 90-day period.

Following discussion with Miss S, Capital One agreed to put Miss S's accounts into an ongoing breathing space while she recovered.

In April 2025 Miss S received communications from Capital One about arrears on her accounts and raised a complaint.

Capital One did not uphold Miss S's complaint as they said it had been made clear to Miss S what would happen while the accounts were in an ongoing breathing space.

Miss S had also raised concerns about late payments being reported in 2024 to the CRAs, but one of our Ombudsmen concluded Miss S's complaint about arrears in 2024 had been brought out of time. Our Investigator therefore considered Miss S's concerns about the arrears recorded in 2025 only.

The Investigator concluded Miss S's complaint should not be upheld. The Investigator said the Capital One agent had explained during the call what would happen while there was ongoing breathing space, and also confirmed this in a subsequent email. Overall the Investigator concluded reporting the arrears was fair in the circumstances, and Capital One had acted fairly given what had happened.

Miss S strongly disagreed. In summary, she said breathing space ought to have protected her from any negative reporting to her credit file. Miss S said she had not been treated fairly given she was in a vulnerable position at the time due to her health, and the matter had brought her a lot of distress.

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.

For the avoidance of doubt, my considerations in this decision are limited to the arrears reported against Miss S's two credit card accounts with Capital One in early 2025.

Having reviewed the submissions I am sorry to learn Miss S has been experiencing difficulties with her health and I recognise how important Miss S's financial standing is to her, particularly in light of her intentions to purchase a property in the future.

I want to assure both parties that while I have only included a summary of what has happened above, I have reviewed all the available evidence and submissions. And while I may not respond to every individual point either party has raised, this is because I have focused on what I consider relevant to reaching a fair and reasonable resolution in this matter.

To reach a fair and reasonable decision I have taken into account any relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

I realise Miss S is particularly frustrated with Capital One and how they have engaged with her, so it may help to explain there are some limitations to my powers here in that it is not my role to fine or punish a firm, or to interfere with a firm's systems, processes or controls - these are all considerations for the appropriate regulator.

Miss S's submissions have also mentioned her concerns that Capital One have breached the Equality Act 2010, so it may also help if I explain that it is not for me to decide if a law has been breached as only a court can decide that.

Images of what was being reported on Miss S's credit file, captured in May 2025, show that each account had one missed payment for the month of April 2025.

I have first considered whether Capital One were entitled to report these late payments on Miss S's respective accounts, taking into account the industry guidance and what would typically be expected for the reporting of arrears.

The Information Commissioner's Office (ICO) sets out guiding principles for the reporting of arrears, arrangements and defaults to the CRAs. The ICO's principles set out if an expected payment is not made by the agreed time and / or for the agreed amount according to the terms and conditions of the account, then the account can be reported as being in arrears.

At the time Capital One issued their final response to Miss S about this matter, no payments had been made to either account for the months of February 2025, March 2025 and April 2025.

Because of this I think it's fair to say that Capital One were entitled to report the arrears in question on both accounts.

I have gone on to consider whether, in the circumstances, it was fair of Capital One to do so.

I've first considered that Miss S has said Capital One did not act in the spirit of the Breathing Space regulations and I believe Miss S is referring to the Breathing Space (Debt Respite Scheme), a scheme set up by the government to provide temporary protection for up to 60 days.

It is clear from having listened to the call between Miss S and Capital One towards the end of January 2025 that Miss S did not wish for the respite from her payments to be limited to 60 days as she had been signed off by her doctor for 90 days.

Because of this Capital One agreed to 'ongoing breathing space' which, given the scheme's intention to provide temporary protection, was therefore not the same as the scheme. So I don't think the scheme applies here.

In the circumstances I think what Capital One have described as 'ongoing breathing space' is something they were able to offer Miss S as part of their toolkit for supporting their customers, and that the 'ongoing breathing space' was offered to accommodate the longer period of time Miss S was looking for to give her a break from her payments for the next 90 days. Indeed, at the time of issuing Miss S with their final response in late April 2025, Capital One noted Miss S's accounts were still in breathing space.

By placing Miss S in ongoing breathing space this put a pause on communications to Miss S chasing her for any non-payment which may have caused her upset and stress, it stopped interest and fees accruing, but did not prevent Miss S from being able to make payments towards the accounts should she find funds to be able to do so. In the circumstances, I do not think this was unreasonable or unfair, particularly as Miss S had shared with Capital One that she was not in receipt of income while she was recovering.

It was also explained to Miss S during the call in January 2025 – on more than one occasion – what it would mean to place her accounts in ongoing breathing space. This included explaining that while the breathing space wouldn't be reported to the CRAs, if minimum monthly payments were not made they would be reported as missed payments to the CRAs. It was further explained that four to five consecutive missed payments could lead to the account being reported as defaulted, and that a default would remain reported to Miss S's credit file for six years.

The communication which followed the call further supported this by explaining while breathing space would not be reported to the CRAs, it would not change how Capital One reported information such as late payments.

And even if I were satisfied the government's scheme applied here, I have noted that the scheme does not indicate that the reporting of arrears should be prevented during the course of the 60 days.

I therefore think it's reasonable to say Miss S was reasonably made aware of what would happen should several months of non-payment build up while she was in ongoing breathing space.

During the call Capital One also offered to refer Miss S to another organisation for support, but Miss S eventually declined this and said she could contact them herself if she wished. Capital One's communication to Miss S following the call signposted Miss S to other organisations for support and invited Miss S to call Capital One if she needed further help. In the circumstances, I've found this to be reasonable.

And as Miss S told Capital One she was not in receipt of any income while she was away from work recovering, Capital One's communication also noted that they were not in a position to set up any sort of payment plan for Miss S at the time.

I realise this period of time was not easy for Miss S due to her health and the temporary impact to her financial circumstances, and I've given careful consideration to what Miss S has said in relation to not being treated fairly as a vulnerable customer.

The FCA recognises a vulnerable customer as someone who, due to their personal circumstances, is especially susceptible to harm. The FCA's guidance around the treatment of vulnerable customers looks to ensure vulnerable consumers experience outcomes as

good as those for other consumers while having regard to the general principle that consumers should take responsibility for their choices and decisions.

Given Miss S's personal and financial circumstances at the time, there is no dispute that Miss S was a vulnerable consumer when she engaged with Capital One about her accounts in January 2025.

Having listened to the call between Capital One and Miss S, it is clear that Miss S let Capital One know she did not wish to share details of her health problems. Miss S shared only that she had undergone surgery and her doctor had signed off on 90 days for her to recover. Miss S told Capital One the purpose of her call was to put a hold on her credit card payments for 90 days.

In the circumstances I think it would be unfair to expect Capital One to know what, if any, adjustments or additional support may have helped Miss S at the time, and I note Miss S did not request any particular support from Capital One at that time.

As I've said, I recognise that the period of time surrounding these events was a particularly challenging one for Miss S and my findings here are not to be dismissive of that. My role here is to reach a fair and reasonable outcome (as I've already set out above). For me to uphold Miss S's complaint I would need to find that Capital One had done something wrong or, in the circumstances, acted unfairly in some way. Taking everything into account I've not found that to be the case.

As I've described earlier, Capital One offered Miss S a solution to her request and explained it to her at the time, and then again in their follow-up communication to her, including the potential impact of taking up that option. I think it reasonable to say this option would have been the same for any other Capital One customer not in a position to make their payments for that period of time. So I'm unable to see that Miss S was treated differently or unfairly in any way.

While I have given careful consideration to the points Miss S has raised about the fairness of the reported arrears, I am mindful that Capital One have a responsibility to report, amongst other things, fair, accurate and up to date information to the CRAs. Overall I think Capital One were entitled to report the arrears when they did, and in the circumstances it was fair of them to do so.

My final decision

I realise this will come as a disappointment to Miss S, but for the reasons above, my final decision is that I do not uphold Miss S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 6 February 2026.

Kristina Mathews
Ombudsman