

## **complaint**

Mrs M complains that Capital One (Europe) plc failed to set up a payment plan with her and defaulted her account. She is also unhappy that her account has been passed to a debt collection agency.

## **background**

Mrs M contacted Capital One in May 2016 to set up a payment plan because she wanted to prevent her account from being defaulted. A notice of default had been sent to her on 11 May 2016. A payment plan was agreed but only one payment was made.

The bank sent a notice of default on 8 July 2016. Mrs M contacted Capital One in August 2016. Capital One told Mrs M that there wasn't enough time to set up a payment plan before the account was defaulted but said they would try to stop the default. Mrs M completed an income and expenditure form and offered £70 per month. Capital One rejected the offer but agreed with Mrs M that she could pay £92.30 per month. They advised Mrs M that her account had already been defaulted.

Mrs M says that Capital One told her that a payment plan would stop the account from being defaulted. She wants the default removed and compensation for being misadvised.

Initially the adjudicator upheld the complaint and recommended that the default should be removed and compensation awarded. The adjudicator said that Capital One should not have offered a payment plan in August 2016 because the default process was too far advanced to stop it.

It was subsequently discovered that Mrs M had made a separate complaint about the default which an Ombudsman determined in January 2017. The Ombudsman decided that although Mrs M had been misadvised about stopping the default in August 2016 (in respect of which he awarded compensation of £150), the default should remain in place.

Because this element of Mrs M's complaint had been decided the adjudicator revised her view. She said that the complaint about referring the account to the debt collection agency should not be upheld, because the bank had told Mrs M that they were going to do this.

Mrs M did not agree. She says that she has recordings of telephone calls with Capital One in which they advised her that the default would not be registered. She also says that the account hasn't been passed to a debt collection agency and remains with Capital One.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I appreciate Mrs M's strength of feeling about the default. But an Ombudsman has already made a decision about this aspect of her complaint and I am unable to consider it again.

The notice of default says that the account might be referred to a debt collection agency. So I can't find that the bank have failed to provide Mrs M with this information.

Mrs M says that the debt collection agency hasn't contacted her and that her account is still with Capital One. The bank have confirmed that Mrs M's account was transferred to a debt collection agency but it was recalled when she made her complaint about the default. The bank has confirmed that Mrs M's account has now been transferred back to the debt collection agency.

I appreciate that Mrs M is worried about the default and frustrated that she hasn't heard from the debt collection agency. But for the reasons given above I'm satisfied that the bank hasn't made an error.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 3 July 2017.

Emma Davy  
**ombudsman**