

complaint

Ms M complains about a default that has been registered against her by Capital One (Europe) plc and about the lack of communication with her about the credit card debt she owes.

background

Ms M is unhappy that Capital One did not make arrangements with her to put in place a repayment plan for her debt and that they registered a default on her credit file in 2010 which she only found out about when she tried to obtain a mortgage some time afterwards. She complains that she has not been receiving regular statements for her account and that correspondence she has received has been confusing. She has asked Capital One to write off half of her debt and to clear her default record with the credit reference agencies.

In its final response to her complaint, Capital One said Ms M's account had gone into default and that it does not send out statements once that has happened. It said it was obliged to report this to the credit reference agencies. It said the account would have gone into default even if a repayment plan had been agreed as the minimum monthly payments are a contractual obligation. It asked Ms M to let it know what payments she could make and to provide full details of her financial circumstances.

The complaint was brought to this service in 2014 and our adjudicator did not recommend that it be upheld as she did not consider that the default was registered in error. She explained that financial institutions have an obligation to provide information to the credit reference agencies and that she could only ask Capital One to remove information if it was incorrect. She said Capital One notified Ms M that her account would go into default unless she brought it up to date. As she did not, our adjudicator said it was reasonable for Capital One to seek to recover the funds it was owed and that she was, therefore, unable to recommend that they reduce her debt. She explained that Capital One was not required to issue statements following the default and confirmed that since that point, the account balance had not changed.

The matter has now been passed to me to reach a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am sorry to disappoint Ms M but I have come to the same conclusions as the adjudicator on the matters raised in her complaint and for broadly the same reasons. Ms M's account did go into default in 2010 and, therefore, Capital One was obliged to report this to the credit reference agencies. Capital One wasn't obliged to continue to send out statements after this event and is entitled to seek repayment of the money it is owed even though the default took place some time ago.

Ms M provided a repayment plan to Capital One in September 2014 and was asked to send in an up-to-date income and expenditure statement together with information regarding her other debts. The case had been handed over by Capital One to a debt collection agency and so Ms M was then told to arrange the repayment plan with the debt collection agency, providing them with the necessary financial information.

The debt collection agency was not willing to correspond with Ms M by email (only by phone or by post) but Ms M was unhappy about the cost this would involve for her. She was not willing to provide the debt collection agency with her personal financial information. Another agency has since tried to contact her but she has not been willing to speak to them as she has not been notified of their involvement by Capital One.

In the absence of an agreement to her repayment plan, Ms M wrote to Capital One to advise that from November 2014 she would start making regular monthly repayments. She advised that she was no longer resident in the UK and was only contactable by email.

I appreciate that Ms M feels strongly about her complaint and is disappointed and frustrated that things have reached the point they have. However, I do not consider it unreasonable that Capital One asked for financial information to enable it to decide what would be a reasonable level of repayment to expect her to make. Capital One has not to date called in its debt but has been attempting itself or through its agents to negotiate with Ms M to come to a fair arrangement.

Ms M would like compensation for the time she has spent in communicating with Capital One and its agents. Capital One has in the past accepted in correspondence with Ms M that there have been one or two occasions when the standard of its communication has not been adequate and has apologised for that. However, from what I have seen I am not, on balance, persuaded that errors on Capital One's part have caused Ms M opportunity costs for which compensation should be paid.

Capital One continues to be obliged to treat Ms M positively and sympathetically with respect to the outstanding amount owed but is itself entitled to expect Ms M to respond to reasonable and relevant financial information requests and to honour her obligations to Capital One.

my final decision

My final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms M to accept or reject my decision before 16 April 2015.

Sarah Carter
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