

## **complaint**

Mr E complains that Capital One (Europe) plc treated him unfairly. He says it behaved inflexibly and forced him into a position where he couldn't meet its ever increasing demands for payment. It then defaulted his account and marked the default on his credit file. This is now preventing him getting the new finance he wants.

## **background**

Mr E had a secure job with regular overtime. His spending was based on this income. Due to no fault of his own and without warning, his overtime was removed. This changed Mr E's financial situation very drastically because he had the same expenses but his income was much reduced.

Mr E said he told Capital One all of this. He asked it to change the payment date for his account. It refused. And because he then missed one minimum payment the debt snowballed. He wasn't able to make his minimum payments for several months. Capital One then registered a default on his credit file. After registering the default, Capital One sold the account to another company "C".

Much to his credit Mr E went out and found a new job. He paid off this debt which had always been his intention. He applied for new credit only to find he couldn't get it because of the default.

He asked both C and Capital One to remove the default. They both refused.

Our adjudicator said Capital One had acted fairly. Mr E had run up the debt. He'd not been able to pay it off as he'd initially agreed. He'd missed several months of minimum payments.

She said Capital One had followed the correct process in registering the default.

For all of these reasons our adjudicator thought we couldn't fairly ask Capital One to do what Mr E wanted it to do.

We've received no response from Capital One about this recommendation. Mr E rejected it and asked that an ombudsman review his complaint.

## **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 can see that Mr E at all times took his responsibilities towards this debt seriously. And, sad to say, he just had too much debt to deal with and was not able to get on top of it for a period of time. That said, I don't think Capital One has done anything wrong. I'll explain why below.

*why I don't think that changing the account payment date would've made a difference*

From the information I've got, things starting to go wrong for Mr E long before he began missing his minimum payments. I can see that he was going over his credit limit and running up interest and charges as a result.

He tells us that because the payment date for his account and his payday were not in sync, he struggled with his minimum payments. He suggests that if the account payment date could just have been pushed back a few days, he'd have been ok. But the information I've got doesn't support that. Rather, it seems his financial situation was precarious and something was going to inevitably give. He had, it seems, more debt than he could ever reasonably manage.

*the business could have helped Mr E more but it's likely the default still would've happened*

I might have expected Capital One to have offered more help. Mr E tells us he wasn't in financial difficulty - he just needed Capital One to change his payment date. But I do think he was in financial difficulty.

That said I think Mr E might not have accepted Capital One's help as he felt the only thing that needed to happen was for Capital One to allow him to pay it after he'd been paid. And it wasn't going to do this. I've seen nothing to suggest that it was able to change his payment date. Further I don't think this would've helped. I think it was always likely that the he was going to default on the debt because he had more debt than he could manage.

Mr E says that way Capital One calculated the minimum payments was unfair to him.. But it seems it was entitled to do this as this was in line with the account terms and conditions. And Mr E had agreed to these.

Taking all of this into account, I don't think it is fair or reasonable to say that Capital One must remove the default.

### **my final decision**

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 9 December 2015.

Joyce Gordon  
**ombudsman**