

## **complaint**

Mrs C complains about the default which Capital One (Europe) plc has entered on her credit record. She is also unhappy about its response when she told it that her financial situation was getting better and she could make higher payments.

## **background**

In January 2012 Mrs C had to enter a Debt Management Programme, which included her credit card account with Capital One. Capital One says it sent her a letter on 26 January 2012. This letter said that it had issued a default notice because her payment plan was for less than the required minimum – it was for £5 per month when the minimum Capital One would accept was £6 per month. Capital One's letter said that it would continue to allow her to repay her debt at the rate she could afford. It also advised Mrs C that she could prevent her account from defaulting by cancelling her long term payment plan. Mrs C says she never received this letter and she is unhappy about the default on her credit record.

Mrs C made payments of £5 per month until August 2013 when she was able to come off her repayment plan. When she contacted Capital One, it was slow to reply, and then sent her a computer-generated letter about financial difficulties which she didn't think fitted her situation.

Our adjudicator found that she could not hold Capital One responsible for the letter not reaching Mrs C, and that it was entitled to issue the default. She also considered that although Capital One's lack of response in August 2013 was frustrating, it didn't cause Mrs C any financial loss. Mrs C did not accept the adjudicator's view, because she says Capital One failed to give proper consideration as to how it should categorise her plan and did not use its discretion in dealing with her particular case.

## **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 can understand why Mrs C is upset about the default on her credit record, when she took action to deal responsibly with her debts, and paid the agreed amount of £5 every month until her situation improved. She has also downloaded guidance from the Information Commissioner's website, and thinks her payments counted as 'moderate to high.' But what I have to focus on is the fact that, as Capital One advised her at the start of the payment plan, the £5 per month which she paid was less than £6 per month which was the minimum it would accept in order not to default the account. This is what led to the default notice on her credit record.

Mrs C says she never received Capital One's letter of January 2012 warning her about this, but I have checked that it was correctly addressed. Where the evidence is contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances. On this basis, I think it's most likely that the letter was sent and arrived. Even if it didn't, I agree with the adjudicator that I can't hold the bank responsible for the letter not reaching Mrs C.

I have also looked at the way Capital One responded to Mrs C when she told it she had been able to come off the Debt Management Plan. I can see why Mrs C was disappointed that Capital One didn't deal with her letter and phone call quickly, especially as she was trying to tell it she could pay the debt off more quickly. It took nearly a month to get an answer, and then it was a standard letter which Mrs C didn't think was suitable.

What Capital One wanted to arrange with Mrs C at that point, when she was no longer on her Debt Management Plan, was to agree an arrangement with her direct. Mrs C wasn't willing to have a payment plan with Capital One, although she told it she was likely to pay at least £15 per month in future. Without any agreement, I find it was reasonable for Capital One to decide to pass the account to a debt collection agency, for the agency to agree payments with her.

Mrs C hasn't shown that she suffered any actual financial loss. We can award compensation for distress and inconvenience, but I am not persuaded that she suffered material distress or inconvenience such that it's appropriate for me to make an award.

### **my final decision**

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

Belinda Knight  
**ombudsman**