

The complaint

Mrs R is unhappy that Capquest Debt Recovery Limited (Capquest) didn't default her account when it should've done, meaning it continued to show on her credit file for longer than necessary.

What happened

Ten years ago Mrs R had a number of debts, but she was unable to keep up with repayments. She contacted a debt management company and agreed a payment plan with her creditors, which she paid each month. One debt, for a credit card, was sold to Capquest two years later.

After six years, Mrs R's other debts stopped showing on her credit file because the default marker had expired. But the debt with Capquest was still showing as an active agreement on a debt management plan.

Mrs R made many calls and sent numerous letters to Capquest to get the matter resolved. Capquest agreed the information would be removed but each month it still showed on her file. Mrs R complained.

Capquest responded to say that the account hadn't defaulted when it took it over which is why it hadn't reported a default. As a resolution, Capquest agreed to remove the account from Mrs R's file. Mrs R complained again because it continued to report the debt on her file and the matter was causing her distress.

Our investigator upheld Mrs R's complaint. She agreed that the account hadn't defaulted when the debt was sold to Capquest, but she also noted that an arrangement to pay (ATP) isn't intended to be a long term solution. Our investigator thought that as Mrs R was making only token payments, her account should've defaulted after six months with her credit card provider, and certainly within six months of Capquest buying the debt. That meant the default should've cleared from her credit file a couple of years before. Our investigator thought that Capquest had done the right thing by offering to remove the account from Mrs R's file. But she thought it should provide evidence that it had done so and pay Mrs R £125 for the upset caused.

Capquest didn't agree. It said that because Mrs R always paid her minimum amount, the account hadn't defaulted. Therefore, Capquest didn't think compensation was warranted.

The complaint was passed to me to decide.

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.

I've decided to uphold Mrs R's complaint for broadly the same reasons as our investigator. I'll explain.

The issue, here, is that Mrs R's account remained on her credit file for longer than six years. She thinks that Capquest should've defaulted the account so that it wouldn't appear on her credit file as an ongoing ATP beyond six years.

I've looked at the rules set out by the Information Commissioner's Office (ICO), which expects a default to be registered by the time an account in an ATP is six months behind with payments.

The rules also say that if an ATP is set at a level which represents only a token repayment, the account should be recorded as defaulted.

It appears that Mrs R's credit card provider should've defaulted the account, but I haven't looked at that. My role is to look at whether Capquest's actions were fair. When Capquest bought the debt, Mrs R was in an ATP. She paid the agreed amount each month so Capquest didn't think it was necessary to record a default. But, looking at the ICO rules for token payments, I think that Capquest should've defaulted the account six months after it bought the debt *at the latest*. So, whether it should've already defaulted or whether Capquest should've defaulted it after six months doesn't matter now. That's because, either way, six years had passed when she complained so it shouldn't have shown on Mrs R's credit file.

Capquest told Mrs R in its response to her complaint that it would update the credit file and the account would be delisted around 14 days after reporting it to the credit reference agencies. But each month the information still showed on her file and she had to contact Capquest to ask it again to correct the information. It's unfortunate that Capquest didn't do what it promised, and I can understand that it would've caused Mrs R some upset and frustration.

I'm pleased to note that Capquest has now delisted the account but it's disappointing that it took more than a year from Mrs R's initial complaint. The circumstances can't have been easy for Mrs R and I can only imagine the upset this matter caused her. She could reasonably have expected Capquest to act on its promise to update her information without the need to chase progress month after month. Our investigator thought Capquest should pay compensation of £125 by way of apology and I'm inclined to agree.

Putting things right

Although our investigator proposed that Capquest provides evidence that Mrs R's credit file has been updated, Mrs R has since confirmed that the information is no longer showing. There's little benefit in requiring Capquest to provide evidence of something Mrs R has already seen, so I haven't made this action a requirement.

But, considering the delays and the distress Mrs R would undoubtedly have experienced, I think compensation is warranted. I'm satisfied that £125 is fair in the circumstances.

My final decision

For the reasons given above, my final decision is that I uphold the complaint. Capquest Debt Recovery Limited must:

- pay Mrs R £125 by way of apology for the delays updating her information and for the upset caused by this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 8 December 2020.

Debra Vaughan
Ombudsman