

The complaint

Ms G disputes a debt with Capquest Debt Recovery Limited and feels it has treated her unfairly.

What happened

Capquest says it administers the debt on behalf of another company who bought the debt from a bank in February 2020. Capquest feels that Ms G owes this debt and should pay it.

Ms G says she doesn't know about this and that Capquest couldn't prove she owes this debt. She doesn't want to pay it and doesn't want it on her credit file.

Capquest accepts that due to not having the original paperwork from the time that Ms G took out the credit agreement with the bank, it cannot enforce payment of the debt. Nevertheless it says Ms G owes the money and that it is entitled to ask Ms G to pay the money back. Ms G says Capquest has been unfair in asking for money to repay the debt, so she complained to it. Capquest feels it hasn't done anything wrong.

Ms G disagreed, so she complained here. The Investigator did not agree with Ms G. As Ms G remains unhappy this complaint has been 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.

Capquest and Ms G don't agree on some of the key issues here. So I can only make my decision based on the evidence provided to me by the parties. In short I must decide what is most likely to have happened. Or in other words, what happened on the balance of probabilities.

Having considered all of Ms G's arguments I'm not persuaded to uphold this complaint. I say this for the following reasons.

I have seen the evidence Capquest has supplied showing the debt's history. This includes its data regarding the bank the debt originated from. It shows how Ms G was then defaulted in 2017 and then the debt was purchased in February 2020 by another company. And Capquest has shown that it administers this debt on behalf of this other company. Capquest has also pointed to the account history of this debt which it administers and shown that Ms G paid towards the debt in both January and February 2020.

So I can see this debt originated at the bank and Ms G complained about the default being added to her credit file at the time and the details of that. I can see the debt being sold and Capquest then starting to administer the debt which Ms G was still paying towards around the time of the purchase. So I am satisfied there is a debt which Ms G owes and that Capquest are administering that debt.

It is important to clarify that our service does not have the power to decide if a debt is legally enforceable or not. Only the Courts can do this. Our service would also not say a business needs to write off an outstanding balance or stop attempting to collect on a debt if we felt it has acted fairly and reasonably.

Capquest have accepted that it cannot enforce the debt. But it feels that as it is owed the debt it is entitled to ask Ms G to pay it. And I feel that is fair. The fact that Capquest accepts that this is not enforceable doesn't mean Ms G doesn't owe the money or that Capquest cannot ask her to repay it. And I can see it fairly told Ms G the debt was unenforceable, so it hasn't done anything unfair there.

Ms G says Capquest has acted unfairly. I've considered the account and correspondence history Capquest has provided. From this I've not seen any persuasive evidence that Capquest has treated Ms G unfairly. She hasn't pointed to any particular incidents as being aggressive or unfair. And I can see that although Capquest has contacted Ms G on occasions I can also see she has contacted it on two occasions. Having reviewed these records I'm not persuaded Ms G has been treated unfairly here by Capquest. And I don't think it has acted aggressively towards her or harassed her. Ms G has said she feels stressed about being chased for the debt she owes. This maybe so, but this doesn't stem from Capquest treating her unfairly.

Having considered all of the above I see no persuasive reason for Capquest not to be reporting on this debt on Ms G's credit file. And this includes the historical movements of the account as it has taken over this reporting. I'm not persuaded Ms G has been treated unfairly here. So I don't see any reason for the debt to be written off or for Capquest to cease collection activity. I'm not persuaded Ms G has been treated unfairly by Capquest in the circumstances. So, in short, this complaint does not succeed.

I appreciate Ms G would rather not pay this debt and that she'll be disappointed by my decision. However I'm satisfied she owes the debt administered by Capquest and that it is entitled to ask her to repay it until either she does pay it all or Capquest decides to stop trying to get her to pay it.

My final decision

For the reasons set out above, I do not uphold this complaint against Capquest Debt Recovery Limited. It has nothing more to do with regard to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 21 December 2020.

Rod Glyn-Thomas
Ombudsman