

## The complaint

Mr E complains about Capquest Debt Recovery Limited's actions when seeking to recover a debt.

## What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. In my provisional decision, I said:

*In 2006 Mr E's credit card defaulted and was subsequently sold to another business (A). Mr E made regular repayments towards the outstanding debt via a third party debt service and was told it had been fully repaid around May 2016.*

*On 21 November 2017 Capquest was appointed to collect the debt by A. On 24 November 2017 Capquest wrote to Mr E and said the outstanding balance was £228.27. Capquest asked Mr E to contact it and make repayments. On 28 November 2017 Mr E wrote to Capquest and asked it for a complete breakdown of the balance it says was owed.*

*Capquest wrote to Mr E and said it had contacted the original lender for information. On 27 January 2018 Capquest sent Mr E copies a list of transactions for his credit card before it had been closed. The last transaction was in 2006 and showed an outstanding balance of £1,864.98. Mr E responded on 31 January 2018 and pointed out that wasn't the information he'd requested.*

*Capquest wrote to Mr E again on 6 February 2018 and said the statements showed the value of the debt when it was purchased by A and sent him a statement that showed the repayments he had subsequently made – bringing the outstanding balance down to £228.27 In May 2016.*

*On 8 February 2018 Mr E wrote to Capquest and asked why £177 of legal fees had been applied to his debt. Capquest responded on 16 February 2018 to say that A had obtained a County Court Judgement (CCJ) against Mr E on 7 March 2008. On 20 February 2018 Mr E wrote to Capquest and no CCJ had been made or reported on his credit file by A. Mr E asked for a copy to be forwarded.*

*Capquest didn't respond to Mr E's request and on 17 May 2018 sent him a letter offering a partial settlement. No reference to the CCJ request was made. Mr E repeated his request, forwarding a copy of his 20 February 2018 letter, but no response was received. Capquest*

*sent Mr E another partial settlement offer on 14 August 2018 to which Mr E responded on 17 August 2018 requesting a full breakdown of the balance. Capquest responded with another set of statements showing the final outstanding balance was £228.27.*

*On 7 September 2018 Mr E again asked Capquest to explain why legal fees had been applied to his account on 10 March 2015 and that he was unaware of any legal proceedings. In November 2018 Capquest sent Mr E another partial settlement offer but didn't send him the information requested. Mr E followed up on 14 November 2018 and repeated his request for further information about the outstanding balance.*

*Capquest sent Mr E another partial settlement offer on 13 June 2019 and on 17 June 2019 Mr E wrote back. He again explained that his records indicated the account had been repaid in full in 2016 and complained that since that time he hadn't been sent anything to show the outstanding balance owed was correct.*

*On 29 September 2019 Capquest responded to Mr E's complaint and said it had complied with his requests for a breakdown of the sums owed and that the legal costs related to a CCJ A had obtained via a firm of solicitors on 16 July 2008. Capquest said the CCJ had dropped off Mr E's credit file after six years had passed. Capquest didn't uphold Mr E's complaint and requested he make a payment of £228.27 to clear the outstanding balance.*

*On 3 October 2019 Mr E responded to Capquest and asked why legal fees for a CCJ obtained in 2008 were only added to the debt in March 2015. Mr E repeated his request for a copy of the CCJ and pointed out it hadn't been supplied despite various requests. Mr E asked Capquest to either provide a copy of the judgement or stop trying to collect the debt.*

*Capquest issued a follow up final response on 22 January 2020 and advised that due to the passage of time the CCJ document wasn't available. Capquest apologised for calling Mr E about the matter. The final response went on to say that Capquest had contacted the previous solicitors to ask about the legal fees. The solicitors responded to say the case was stayed, which meant the claim didn't proceed to a CCJ. Capquest agreed that the court costs shouldn't have been added to the account and removed them. Capquest agreed to waive the remaining £51.27 and closed Mr E's account. Capquest also sent Mr E a cheque for £200 for the distress and inconvenience caused.*

*Mr E referred his complaint to this service and it was passed to an investigator. They thought Capquest had dealt with Mr E's complaint fairly and didn't ask it to do anything else. Mr E asked to appeal as he didn't feel the £200 compensation he'd received fairly reflected the impact of how long the situation had gone on for or the distress and inconvenience caused. As Mr E asked to appeal, his complaint has been passed to me to make a decision.*

### ***What I've provisionally 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 set out the majority of correspondence between Mr E and Capquest since it took over administration of the debt in November 2017. I think it's fair to say that Mr E was quick to respond to Capquest's letters, stating and restating his requests for further information to help him understand how an outstanding balance remained, despite the payment plan that completed in 2016. However, I didn't find the same from Capquest and can see that lots of Mr E's letters appear to have gone unanswered. There also appears to have been gaps of several months between Mr E's responses being sent and Capquest contacting him again. And, on several occasions, Capquest's follow up letters were partial settlement offers, not responses to the information requested.*

*I note Mr E asked for a breakdown of his outstanding debt but was initially only sent details of the transactions that formed part of the original debt. I can't see that Mr E ever asked Capquest for that information. He just wanted to understand why he still owed £228.27. As soon as Capquest sent Mr E details of the payments he made as well as the legal costs added to his debt he responded and asked why £177 had been applied.*

*Mr E first asked Capquest about the legal costs on 8 February 2018 but Capquest didn't give him an answer until it issued its second final response, on 22 January 2020, just short of two years later. And, Capquest ultimately accepted that the legal costs shouldn't have been added to Mr E's account and refunded them. Whilst I understand Capquest wasn't the party that applied the costs to the debt in March 2015, I think it could have checked what happened with the solicitors at an earlier stage. I don't think it was fair that the costs took around two years to investigate and clarify.*

*Capquest repeatedly told Mr E that A had obtained a CCJ against him in 2008, a claim he consistently denied. Again, the issue was explained when Capquest took the step of contacting the solicitors involved. And, the explanation confirmed no CCJ was ever obtained by A. I can understand that being repeatedly and incorrectly told a business had obtained a CCJ would be upsetting and frustrating. I'm pleased Capquest was ultimately able to give Mr E the correct information.*

*As I've said above, there appear to have been periods of several months where Capquest didn't contact Mr E and, when it did, failed to respond to his letters. I think the service provided was poor at times and can understand Mr E's growing concerns and frustration.*

*I'm pleased Capquest removed the court fees. The remaining outstanding balance of £51.27 was written off, which is fair in the circumstances. Capquest also sent Mr E a cheque for £200 in recognition of the distress and inconvenience caused. Mr E has told us he spent many hours dealing with this matter and has lost out on income. I understand why Mr E feels the offer of £200 is too low and I agree it ought to be increased to a level that more fairly reflects the length of time the situation went on and the impact of the service provided.*

*Mr E has given us information about how much he could have earned during the time he spent on this matter. But, we don't generally make awards on that basis. Our awards are made on the basis of the impact caused by a business' error on a consumer. Having taken everything Mr E and Capquest have sent us into account, I think the compensation awarded should be increased. I don't think the £200 award is fair in light of what happened. To resolve the complaint, I intend to tell Capquest to increase the compensation for the trouble and upset caused to Mr E from £200 to £400. In my view, that figure is fair and takes into account the longstanding nature of Mr E's complaint and impact on him.*

*I asked Mr E and Capquest to respond with any additional comments or information they wanted me to consider before I made my final decision. Mr E responded to say he felt the compensation amount should be higher but didn't provide any new information.*

*Capquest responded to say it hadn't written back to Mr E after he made duplicate information requests. Capquest also said Mr E was liable for the legal costs incurred as a result of court action that hadn't proceeded.*

### **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.*

Whilst I understand Mr E feels the level of compensation awarded should be higher, I remain of the view that £400 fairly reflects the impact of Capquest's actions, in line with the findings I reached in my provisional decision.

Capquest's comments and copies of the correspondence it sent Mr E haven't persuaded me to change my view on how to resolve this complaint. Whilst Capquest says it didn't respond to duplicate information requests Mr E made, I have to take into account that he repeatedly asked for evidence a CCJ had been obtained. Capquest, in turn, repeatedly claimed a CCJ existed in Mr E's name without providing any proof. Ultimately Capquest accepted no CCJ was ever obtained against Mr E. So I don't agree it's fair to say Mr E's request for evidence of the CCJ Capquest claimed was obtained were duplicates of earlier letters.

Capquest says Mr E was liable for the legal fees despite the fact no legal action was taken, but it hasn't clearly explained why. And, Capquest has provided emails from the solicitors in question from August 2016 that say the outstanding balance should've been reduced by £177, representing the legal fees, which would've left an outstanding balance of around £51. I haven't seen any new information that makes me think Capquest was acting fairly by attempting to recover legal fees from Mr E in this case.

As I haven't been sent any new information that changes my view on how to fairly resolve Mr E's complaint, I'm going to proceed in line with the conclusions I reached in my provisional decision. I still think this complaint should be upheld, for the same reasons.

### **My final decision**

My decision is that I uphold this complaint and direct Capquest Debt Recovery Limited to pay Mr E a total of £400 (less £200 if the original cheque sent was cashed) for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 21 April 2021.

Marco Manente  
**Ombudsman**