

## The complaint

Mr G has complained that Capquest Debt Recovery Limited have been pursuing him for a debt despite his debts being written off under a Debt Relief Order (DRO).

## What happened

This complaint surrounds a loan agreement that was sold to Capquest in 2005.

In February 2020, Mr G applied for a DRO through a debt charity, which would write off his debts. At the time, this debt was in dispute, and it didn't get included in the DRO.

In 2021, Mr G asked Capquest to write off the debt in view of his insolvency and his medical situation. But Capquest declined to write it off and continued pursuing Mr G for the account. There was also a dispute over the balance, as several thousand pounds had been added to the balance since the debt was sold to Capquest.

Our investigator looked into things independently and directed Capquest to correct the balance. Capquest didn't respond, so the complaint's been passed to me to decide.

I sent Mr G and Capquest a provisional decision on 12 October 2022, to explain why I thought the complaint should be upheld. In that decision, I said:

*Based on what I've seen so far, I think this account should be written off.*

*We spoke to the debt charity who acted as Mr G's intermediary for the DRO. They confirmed that they submitted his application to the Insolvency Service in February 2020, and that the Insolvency Service did not raise any issues with the DRO. They explained that they no longer held all the paperwork due to the time that had passed, but as far as they were aware, Mr G's debts should've been written off in February 2021.*

*The DRO was too long ago to still be on the Insolvency Service's register, but based on the evidence I've seen from Mr G and his intermediary, it looks like it went through and his debts would've been written off around February 2021.*

*It's not entirely clear why this debt wasn't included in the DRO. It looks like it may have been because at the time, the servicer was not providing the necessary documents to verify that this was a valid debt. But regardless of whose fault it was, as far as I can see, this debt should have been included in the insolvency. It was an unsecured debt within the DRO threshold. I've not seen any reason why it should not have been included.*

*So as far as I can see, this account should have been written off in early 2021.*

*I also note that given the account's history and Mr G's token payments, it looks like interest and charges should have stopped a long time ago. But from the balance, I can see that a very large amount of extra charges have been added, taking the debt far beyond its original total, and far beyond the amount that was actually sold to Capquest. And Capquest have only provided statements for the wrong account, so I can't verify that the balance is correct. So it's not clear what's really outstanding, if anything.*

*Further, it doesn't seem reasonable for Capquest to be pursuing an insolvent pensioner with no assets, little if any disposable income, and a significant medical condition, for a debt which really should have been written off in an insolvency.*

*It follows that I currently think Capquest should write off this debt and close the account now. They should also refund any repayments taken since February 2021 – when the DRO would have ended – and add simple compensatory interest to any repayments refunded. And I can see that by declining to help, they caused Mr G some real stress and upset when he was already going through a tough time. They also delayed his complaint and prolonged the issue for him by declining to co-operate with our service. So that should all be put right too.*

I said I'd consider anything else anyone wanted to give me – so long as I received it before 9 November 2022. Mr G accepted the provisional decision. Capquest didn't reply.

### **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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case, I've come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

### **Putting things right**

I direct Capquest Debt Recovery Limited to:

- Write off and close this account;
- Refund any repayments they've received from Mr G since February 2021;
- Pay simple interest to Mr G on any refunded repayments, at the rate of 8% simple a year, payable from the date each repayment was taken until the date it's returned<sup>†</sup>. This is to compensate Mr G for the time he didn't have that money;
- Pay Mr G £200 compensation for the trouble and upset caused.

### **My final decision**

I uphold Mr G's complaint, and direct Capquest Debt Recovery Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or

reject my decision before 7 December 2022.

Adam Charles  
**Ombudsman**