

## The complaint

Mr F complains Capquest Debt Recovery Limited haven't registered all the payments towards his debt they should have.

## What happened

I issued a provisional decision setting out what'd happened, and what I thought about that. I've copied the relevant elements of this below, and they form part of this final decision.

*My understanding is Mr F took out a loan with a company I'll refer to as R in 2006. The account defaulted as it fell into arrears – and over the years since then Mr F has had several payment arrangements. Having reviewed these, he thinks some payments haven't been credited to his account. His complaint to Capquest said he'd calculated this shortfall as £2,186.14.*

*On 14 January 2022 Capquest provided a brief reply saying they couldn't provide their final response because they were carrying out a thorough investigation. They did say though they'd found payments totalling £1,120 that'd not been credited to Mr F's loan account. They said as they're no longer managing the account, the payments would need to be refunded directly to Mr F.*

*In their final response issued a week later on 21 January 2022 Capquest said when they began looking after Mr F's account on behalf of R, they took over three accounts. They said they'd found all of the payments, and each one had been applied to an account to reduce the balance of that account. They said references of the payments showed which account those payments were made to. Because of this, they said they weren't upholding the complaint.*

*Unhappy with this later response Mr F asked us to look into things. Our Investigator said Capquest had located missing payments from 2016 totalling £1,120 and these needed to be refunded – but he felt they'd miscalculated this amount, and actually the refund should be £1,228.04. He also felt Mr F had been caused inconvenience, so awarded him £100 compensation.*

*There was a separate complaint addressed to another debt collection company, where the remaining payments Mr F was disputing from 2015 had been found – so they no longer formed part of this complaint.*

*Mr F accepted this outcome. Our Investigator asked Capquest to reply on multiple occasions, but as at the date of this decision they've not done so. Generally if a financial business disagrees with the outcome we'd reached they'd provide additional information for our service to consider.*

*As Capquest haven't done that, the complaint's been passed to me to decide.*

### ***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 think it's important to explain as a starting point it's unclear to me if Capquest still agreed they should refund the £1,120 they said in their first response they intended to. I say that because their second response says they've located all the payments and they're not upholding his complaint – when actually I'd expect them to say they are upholding this complaint if refunding the £1,120. But what they've not made clear is why they said in their first response they'd found eight payments of £140 totalling £1,120 that hadn't been applied to an account and needed to be refunded – but are now saying these don't need to be refunded. Nor have they clearly explained when the payments of £1,120 had been credited or provided any evidence of this happening. As I've explained above, generally, if a financial business disagrees with our Investigator they'd provide additional evidence to support this – Capquest haven't replied in over six months.*

*The eight payments totalling £1,120 are from 2016. Mr F initially raised these payments as a concern saying they were missing from his records.*

*He provided a copy of his loan account statements – these show no credits of any amount from January 2016 until a payment of £31.96 was credited in August 2016.*

*I've also seen Mr F's current account statements from this time. These show he was paying £140 per month to Capquest from January until August 2016 as he said he was.*

*So, I've got statements showing payments leaving his account to Capquest of £140 for January to July 2016 with no credits – and in August a payment of £140 to Capquest, but only £31.96 was credited to his loan account.*

*Capquest's explanation is these payments were credited to an account – but they've provided no evidence of this. In Mr F's complaint about the debt collector who was taking payments in 2015, they've accepted they didn't apply Mr F's credits to the loan account correctly.*

*Given the lack of evidence provided by Capquest (and the lack of a response over a significant period of time), combined with Mr F's payments in 2015 being accepted as not having been credited (albeit by another company) – it seems more likely than not to me based on the evidence I have Mr F's payments from 2016 also weren't applied to his loan account.*

*To clarify though, I think this applies to the January to July £140 monthly payments. Over these seven months there were seven payments – this comes to £980.*

*Our Investigator has calculated that Mr F paid £140 in August, but I think then believed a separate payment of another £140 was made – of which only £31.96 was credited to the loan account.*

*But the statements don't support this. I think Mr F made his August payment of £140 as usual – and for some reason that I can't know, only £31.96 of this was credited to his loan account.*

*This would suggest £108.04 wasn't credited from the August payment of £140, along with the £980 from the January to July 2016 payments. This means in total I think Mr F has paid £1,088.04 worth of payments to Capquest, with no evidence provided to show they've been credited to his loan account as they should have been. So, I intend to require Capquest to refund these payments to Mr F.*

*I've noted in his complaint Mr F has highlighted two payments, May and July 2017, that haven't been credited – but his loan statement does show three credits of £140 in September 2017, though he only made one payment from his current account in that month. I can't know for sure these are the May and July 2017 payments But in any event for this time period Mr F has made payments towards the loan, and Capquest have credited the loan, with the same amount.*

*I am in agreement though with our Investigator Mr F has been caused inconvenience by this situation. I think Capquest providing conflicting information about whether Mr F was due a refund – by first saying he was, and then seemingly saying he wasn't, is in itself distressing. Added to that I've found Mr F is due a refund as outlined above, I think compounds the distress Mr F has experienced. Because of that, I intend to award £200 compensation.*

### **Responses to my provisional decision**

Mr F just asked for updates on what happened next.

Capquest explained they felt they had sent the money over to R. They said though due to the age of the transactions they could no longer evidence that.

As Capquest were insistent they'd paid the money to R, our service contacted R. They said if Mr F can evidence he paid Capquest but the money wasn't credited to his loan account then they'd have to assume Capquest hadn't passed the money over to them.

R also provided an internal screenshot which matched the information in Mr F's statements which I've set out above.

### **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 understand Capquest feel quite strongly they passed the money over to R – but I've not been provided with any evidence I consider satisfactory to confirm that. In addition, we've now asked R who have also provided evidence which is the same as Mr F's statements.

I can't know for certain what's happened here but based on the same evidence I used to rely on when issuing my provisional decision, I consider it more likely than not Capquest have received payments of £1,088.04 from Mr F but haven't credited them to his loan account. So, I'll require Capquest to refund this amount to Mr F.

I remain of the opinion Mr F has been caused inconvenience and distress, so still think the £200 compensation award is fair.

If it later transpires the payments Mr F made to Capquest were paid to R, then I'd expect Capquest to take that up with R – given the statements show no evidence of those payments being credited.

## **Putting things right**

I require Capquest to:

- Pay Mr F £1,088.04 representing payments he's made to his debt which Capquest haven't applied.
- Pay Mr F a further £200 compensation.

## **My final decision**

I uphold this complaint and require Capquest Debt Recovery Limited to carry out the actions in the 'Putting things right' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 February 2023.

Jon Pearce  
**Ombudsman**