

The complaint

Mr W complains Capquest Debt Recovery Limited are pursuing him for a debt that isn't his.

What happened

Capquest took ownership of an account from a lender – the account opened in July 2003. In July 2004, Capquest say the account defaulted and the outstanding balance was around £21,000.

Mr W emailed Capquest on 25 April 2022 and said they were pursuing him for a debt for an account he has never had. So, he asked Capquest to stop contacting him. Mr W then called Capquest as he said he hadn't heard anything from them and they offered to set up a dispute on their system about this issue.

On 25 June 2022, Capquest sent Mr W a letter acknowledging he was disputing the debt was his and they asked him to provide proof of identity along with proof of residency at the time the account was opened on 1 July 2003. Capquest also noted the outstanding debt they were pursuing was for around £21,000.

Mr W replied to this letter on 30 June 2022 and confirmed the address he was living at in 2003. Mr W was also reluctant to provide the proof Capquest requested as he said he never had any dealings with Capquest nor the original lender the account was with. It doesn't seem Mr W received a response to this, so he contacted Capquest again on 8 July 2022 and said he wasn't sure how they got his details and that he didn't want them to contact him anymore.

Capquest sent Mr W a letter on the same day and apologised for not sending an acknowledgement to Mr W's initial email of 25 April 2022. Capquest said they would undertake an investigation into the concerns raised by Mr W.

In the meantime, Capquest have provided a screenshot which they shows they raised a query with the original lender for a copy of the credit agreement on 20 July 2022. The screenshot shows this was received on 22 August 2022, but there doesn't seem to be any evidence to suggest Mr W was made aware of the investigations at this point.

Instead, Capquest sent an email to Mr W on 11 August 2022, in response to Mr W's email of 30 June 2022 setting out details of the account that they were pursuing the debt for – details included the outstanding debt was around £21,000, the date the account was originally opened which was in 2003 and that it defaulted on 1 July 2004. The email then went on to say as there was no arrangement in place to pay the outstanding amount, Capquest offered to set one up or alternatively, offered Mr W the option of paying around £19,000 to settle the account in full. Lastly, at the bottom of the email, Capquest then said they raised a dispute for Mr W which was with their specialist team.

Understandably, Mr W was surprised to receive this email and responded on 16 August 2022 asking Capquest to show him what evidence they held to suggest the account and outstanding debt was his. Mr W says trying to get confirmation from the council showing

where he lived 20 years ago was proving difficult, as he was told they don't hold records that far back.

The next correspondence Mr W received from Capquest was then their final response letter on 30 September 2022 explaining there was a possible mistrace. And that Mr W will no longer be contacted about the debt.

Mr W says he has found the whole situation very stressful, especially as Capquest said the outstanding debt Mr W owed was over £21,000 – which is a considerable amount. Mr W feels Capquest have harassed him and he wants Capquest to pursue the correct person for the debt and not him.

Capquest say they contacted Mr W in good faith using information provided to them by the lender and also Credit Reference Agencies (CRAs). However, having contacted their trace department, they established they may have possibly mistraced their customer. Capquest said they didn't think they had harassed Mr W in terms of the level of contact made but do believe the contact made could have been prevented. As Capquest's trace department advised this was a possible mistrace and also as they hadn't received any payments towards the debt in the past six years, Capquest closed the account and said Mr W will no longer be contacted regarding the debt. Capquest also reassured Mr W that they would remove his details from their system. Overall, Capquest acknowledged the stress and inconvenience caused to Mr W. So, they apologised for this, said that they would provide feedback to the relevant part of the business and arranged for a cheque of £100 to be sent to Mr W as compensation.

Mr W confirmed he cashed the cheque in, but said he felt the £100 was compensation for the time it took Capquest to identify this was a mistrace and didn't compensate him for the stress and anxiety caused.

Our Investigator looked into Mr W's concerns. In summary, he said Capquest didn't obtain a definite trace to confirm Mr W was the genuine debtor and that when Mr W complained about being pursued for the debt, Capquest were slow to deal with his concerns. Our Investigator also said Mr W was worried he was facing a substantial debt and found the matter very stressful. So overall, our Investigator asked Capquest to pay a further £250 in addition to the £100 they've already paid Mr W.

Mr W agreed to our Investigator's recommendation. However, Capquest didn't. They clarified that they sent a query to the original lender asking for a copy of the agreement so a check could be done on the opening address. Capquest provided a screenshot to show this request was sent to the lender on 20 July 2022 and was received on 22 August 2022. Capquest recognised Mr W's email to them on 25 April 2022 wasn't acknowledged when received as it wasn't reviewed by their case handler. Capquest also said it was clear in the call between them and Mr W that he was disputing the account was his, so payment shouldn't have been discussed. So, Capquest agreed further compensation was warranted and suggested a further £100 compensation, bringing the total compensation amount to £200. We put this to Mr W, but he disagreed and said the £350 in total recommended by our Investigator was fairer. So, the 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.

All in all, it was around five months from when Mr W first complained about being pursued for a debt he didn't own in April 2022, to when he received Capquest's final response letter

at the end of September 2022, confirming they possibly mistraced their customer and that they were going to remove Mr W's details from their system. I asked Capquest for information on their process for what steps they would typically take once a customer raises a possible mistrace or disputes the debt is legitimately theirs, but they didn't provide this. Instead, Capquest explained the reason they didn't take action when Mr W first complained to them in April 2022 was because his concerns were, unfortunately, missed by them and his email wasn't picked up.

During this period of five months, Capquest gave Mr W conflicting information – they first asked him to provide proof of residence at the time the account opened in 2003, which I understand Mr W was reluctant to provide given his strong belief that he didn't have an account with the lender Capquest were pursuing the debt on nor had he had any dealings with Capquest previously. The next correspondence Capquest sent to Mr W acknowledged he wasn't sent a response to his first contact in April 2022 and reassured him Capquest were investigating his concerns. Then, Capquest sent Mr W another email on 11 August 2022 (in response to an email he sent two months prior in June 2022) asking him to pay the outstanding debt. I don't think it was clear to Mr W what was expected from him and understandably, this would have caused Mr W confusion and worry – I think Mr W would have been left very concerned about whether Capquest were investigating matters for him or whether they were expecting him to pay the debt.

Additionally, Capquest's email of 11 August 2022, also seems to be conflicting. On one hand, Capquest said they expected Mr W to pay the outstanding balance or to settle the account by paying around £19,000. But on the other hand, they said a dispute had been raised and was escalated to their specialist team. This led to further frustration for Mr W as it resulted in him sending another email to Capquest where he asked for evidence to show he owns the account they were pursuing him for the debt on. Despite asking for this information several times, I haven't seen any evidence to suggest Capquest were able to show Mr W that he owned the account and I don't find this request to be unreasonable.

Further to this, Capquest say they spoke to Mr W on 23 June 2022 and a dispute was discussed, including the documents needed for the matter to be reviewed. When the dispute was received, they raised a query for a copy of the agreement from the original lender on 20 July 2022. It's not clear what Capquest mean when they say the dispute was received and it's also not clear on what date this was received. Nonetheless, the query was raised with the original lender nearly three weeks after Capquest say they spoke to Mr W on 23 June 2022. I think it would have been helpful for Capquest to let Mr W know that they contacted the original lender for a copy of the credit agreement as I think this would have given Mr W some reassurance that they were listening to what he was telling them – that he never held an account with the original lender. Instead, the next correspondence Mr W received from Capquest was that of 11 August 2022 – where Capquest asked Mr W to pay the debt or settle it in full with a payment of around £19,000.

Capquest say they received a copy of the credit agreement from the lender on 22 August 2022. Capquest have provided evidence of an email where they raised a mistrace query to the relevant team on 28 September 2022 – this was just over a month after Capquest say they received the information from the original lender. I haven't seen any evidence to persuade me of the reason for why this took over a month, and I think Capquest could have acted faster given the amount of money they were pursuing Mr W for here.

Overall, while I find Capquest thought they were seeking to recover payment from the correct person, I don't think they treated Mr W fairly. Capquest didn't provide Mr W with the information he'd asked for to contest the debt and I think they took too long to respond to Mr W's concerns. I think five months is a long time for Mr W to be worrying about a debt of a considerable amount that he told Capquest, multiple times, wasn't his. So, I think this matter

unnecessarily dragged on for some time. When Capquest did contact Mr W, I don't think their communication was clear in terms of what was expected from Mr W at that point in time. I also think Capquest could have kept Mr W better informed in terms of why they took so long to respond to his concerns (they simply said they apologise for their delayed response in the final response letter) and also what contact they made with the original lender. Having listened to the call between Capquest and Mr W, I agree that it was clear from the outset Mr W was disputing the account and debt was his. So, I don't think it was helpful for the advisor to discuss the amount outstanding that Capquest were pursuing Mr W for.

Turning to the impact this mistake error has had on Mr W, he told us this has caused him stress and anxiety for which he was prescribed medication for. Mr W says he felt Capquest harassed him and he says this issue has impacted his family life as the lack of communication from Capquest about his concerns has affected his mood. I can understand the distress and worry Mr W has been caused as I say, Capquest were asking him to pay quite a significant amount of money. Mr W also sent Capquest an email in October 2022, after their final response letter, asking them to consider a higher amount of compensation for the distress caused and he also asked them for confirmation that they won't sell or use his information. I can see this email was received by Capquest but I haven't seen any evidence to show Capquest responded to these requests and I think this would have added to Mr W's feelings Capquest weren't communicating adequately with him.

I understand Mr W says he was expecting a bailiff to arrive at his house to ask him for the outstanding balance, which was worrying for him. Mr W says he hasn't had confirmation from Capquest nor the original lender that they won't pursue him for this debt. But Mr W received confirmation from Capquest in their final response letter that they would be removing his details from their system and that they won't pursue him for the debt. So, without any other evidence to contradict this, I think it's fair for Mr W to rely on these reassurances given by Capquest.

Having thought about the distress and inconvenience caused, I think the impact of this issue has caused Mr W considerable stress, upset and worry which lasted over a number of months. So, I agree with our Investigator that I think Capquest should pay Mr W a further £250 compensation, in addition to the £100 they've already paid him, bringing the total compensation amount to £350.

My final decision

I uphold this complaint and I require Capquest Debt Recovery Limited to pay Mr W a further £250 compensation, bringing the total compensation amount to £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 21 February 2023.

Leanne McEvoy
Ombudsman