

The complaint

Mr O complains that Capquest Debt Recovery Limited (Capquest) are chasing him for a debt he believes was lent to him irresponsibly and sold without warning. He also complains that he hasn't been provided with evidence the debt was legally purchased.

What happened

Mr O acquired a car on finance with a creditor (M), in 2015. He says very shortly after, he went into financial difficulty which led to the car being repossessed and a payment plan being set up for the remaining balance on the agreement.

In December 2019, the debt was sold to a debt purchaser (A). In May 2023, A assigned ownership of the debt to another debt purchaser (B), who appointed Capquest as the administrator of the account.

In response to the Notice of Assignment sent to Mr O in July 2023, Mr O asked Capquest for documentation to evidence the debt they claimed to be owed by him. Two weeks later, he wrote to Capquest again giving them 14 days to respond and provide the documentation he'd asked for, and he said failure to do so will mean he reserves the right to seek full recourse through the court of law.

Capquest didn't respond to Mr O's complaint within eight weeks, so Mr O referred his complaint to the Financial Ombudsman Service in October 2023. In summary he said:

- The debt owed was a result of M irresponsibly lending to him.
- M sold the debt without any warning.
- He asked Capquest for evidence that the debt was legally purchased, including the Deed of Assignment, which was never received.

Our Investigator reviewed matters and said they were satisfied the debt was legally assigned to B, and so Capquest can take reasonable steps to continue to recover the balance outstanding. They also said they wouldn't expect Capquest to take responsibility for the actions of M, or provide the Deed of Assignment as this is commercially sensitive.

However, our Investigator didn't think Capquest had met its obligations to provide Mr O with a copy of the original credit agreement when requested, or investigate and respond to Mr O's dispute in a timely manner. The Investigator said Capquest should look into Mr O's request for documentation and disputed debt with M and put the collection on hold until a response is provided. In addition, the Investigator thought Capquest should pay Mr O £150 for the distress and inconvenience caused to him by this not being done sooner.

Mr O didn't respond to the Investigators findings. Capquest didn't agree and provided system notes that showed they had requested and chased the documentation from M. The Investigator reviewed the new evidence provided and accepted Capquest did request the credit agreement. However, they maintained Capquest didn't do enough to ensure a timely response, failed to keep Mr O updated and never actually responded to his dispute.

Capquest didn't agree. And as no agreement has been reached, the matter 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.

In considering what is fair and reasonable, I've taken into account the relevant industry rules and guidance, and what would be considered as good industry practice. Having done so, I've reached the same outcome as the Investigator, for broadly the same reasons.

First, I must set out what this decision will cover. Mr O has raised multiple issues – some of which I'm unable to consider here as they relate to activities M are responsible for, as the original lender. To clarify, Capquest aren't responsible for Mr O's complaints relating to irresponsible lending, or M's decision to sell the debt. Although, it may be helpful to explain that it isn't unusual not to be warned of a debt being sold, as it's standard industry practice for consumer's to be notified via a Notice of Assignment.

If Mr O would like to pursue his complaints about irresponsible lending and the sale of the debt, he may be able to raise this with M directly.

Turning now to what I can consider, as the debt servicer, Capquest is responsible for investigating Mr O's concerns about the debt and providing details of the debt to him in a timely manner. So, I've considered if Capquest treated Mr O fairly when he asked them for evidence he owed the debt he was being asked to repay.

Mr O first contacted Capquest to request evidence of his liability for the debt in July 2023. In these circumstances, I'd expect Capquest to put the collection of the debt on hold and obtain the relevant documentation from the original lender.

Capquest have shown they did put collection of the debt on hold here and contacted M to request the credit agreement in July 2023. However, I don't agree Capquest did enough following this request.

Capquest's contact records show they didn't chase M for the credit agreement until November 2023, around four months after they initially requested the information. I don't think this is a reasonable timeframe and note Mr O wasn't updated during this time either.

Capquest have said they sent him his referral rights to the Financial Ombudsman and responded to his Subject Access Request in October 2023, so don't agree they've not communicated with Mr O. However, these communications did not include a response or update on Mr O's dispute about the debt, as I would've expected. From the evidence available, I can't see that Capquest have ever answered Mr O's original request for evidence of liability, or provided an update on why they've been unable to provide this to him to date – and I think they need to.

As this service is not the regulator, I can't fine or punish Capquest. But I can consider the impact caused to Mr O and I do think Capquest's inaction caused him unnecessary inconvenience and frustration. So, I think it's fair that Capquest pay Mr O £150 compensation in recognition of this.

My final decision

For the reasons set out above, I uphold this complaint and direct Capquest to:

- Provide a response to Mr O's request for evidence of liability.
- Pay Mr O £150 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 4 April 2025.

Nicola Bastin
Ombudsman