

The complaint

Mr W complains Capquest Debt Recovery Limited have asked him to repay a debt which isn't his.

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.

Mr W says a few years ago, he was incorrectly linked to a debt that'd accrued with a company I'll call L. At the time, Mr W was able to successfully dispute the debt.

In August 2023, Mr W was contacted again following the purchase of the account by a debt purchaser (DP), by Capquest, asking for repayment of the same debt. Once again, he disputed it, but contacted our service on 30 January 2024 to say he'd not had a reply to his complaint with Capquest.

As part of our standard process, we asked Capquest for their file. They said they'd not received any complaint from Mr W but would look into things and issue their findings to him as soon as they could.

On 27 February 2024 Capquest wrote to Mr W, and explained they'd been given his address by one of the credit reference agencies (CRAs) as a possible address for him. In the letter they confirmed they'd now closed down the accounts – and due to the age of the accounts there would be no credit file reporting.

Mr W said it was vital for his work that his credit file is in good standing, so he was very concerned by Capquest asking him to repay the debt.

Ultimately one of our Investigators said Capquest hadn't reported anything on Mr W's credit file, and weren't responsible for the incorrect information as that came from the CRA. But, he felt Capquest should have checked with Mr W he was the 'correct' customer before demanding repayment – and awarded £50 for this.

Capquest felt their response was fair, so didn't agree to this.

Mr W also didn't agree to this, saying the stress of them contacting him was worth more than £50.

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'm aware our Investigator said there were elements of this complaint that Capquest weren't responsible for. But, in my view by appointing a regulated debt servicer, DP passes on responsibility for all actions under Article 60B(2) to Capquest. So, I'll be taking the approach that Capquest is responsible for the activity of exercising the lender's – in others words the

owner of the debt (DP) – rights and duties under a regulated credit agreement. So, I'll be considering these elements against Capquest.

Capquest were assigned to service this debt around August 2023. They've provided evidence to show they were given Mr W's details from a CRA. I'm aware we've given Mr W the details of that CRA, and he's complained to them already.

The details of the other person match Mr W's first name, surname and date of birth – so the only difference was the address.

Our Investigator thought Capquest should have written to this address to check if the Mr W who lived there was the correct person who owed the debt – but I don't agree with this. From what I can see, Capquest raised a legitimate query with the CRA, and were given information which was reasonable for them to rely on – Mr W's address.

The fact it turned out not to be the right person's address is unfortunate. But, I don't think Capquest did anything wrong on this point – and I wouldn't expect them to have written to the address to check it was the correct party first. Because of that, I won't be awarding the £50 our Investigator thought was fair.

I think Capquest were entitled to rely on the information they received to contact Mr W, so I've no concerns about the mis-trace being Capquest's responsibility based on the evidence I've currently got.

Additionally, although Mr W mentioned there was an impact on his credit file, Capquest have provided information which suggests they never recorded anything on his credit file for this debt. I can see our Investigator explained this, and Mr W didn't disagree. So, I can't reasonably say Capquest have done anything wrong here either. If Mr W does disagree and can provide evidence of an impact on his credit file, then I'd ask him to send that in to our service.

Taking everything into account, I think Capquest have fairly relied on the information they were given to contact Mr W and haven't reported anything on his credit file. So, I'm not currently planning to award any compensation.

Responses to my provisional decision

Capquest said they had nothing further to add.

Mr W didn't reply by the deadline.

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.

As neither party have provided any additional points to consider, I still don't think Capquest have done anything wrong.

My final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 21 April 2025.

Jon Pearce
Ombudsman