

The complaint

Mr S is unhappy with how Capquest Debt Recovery Limited (Capquest) have engaged with him about an outstanding credit card debt of £7,312.66.

What happened

I issued my provisional decision to both parties explaining why I thought Mr S's complaint should be upheld in part and invited both parties to provide any further evidence and / or submissions in reply.

The background to this complaint was set out in my provisional decision together with my provisional findings which are both copied below and now form part of this final decision.

Background

Mr S took out a credit card with Company C, but after the account defaulted in September 2023 the debt was sold to Company N in October 2023. Company N appointed Capquest to handle the account on their behalf and in turn Capquest instructed Company M to collect the debt.

Early in November 2023 Mr S asked for his debt to be written off due to medical reasons. He provided a breakdown of his income and expenditure (I&E) and when asked by Company M to provide supporting medical evidence, Mr S provided two medical letters to Company M in December 2023, after which Company M passed his request to Capquest to consider.

Various exchanges followed between Company M and Mr S, and between Company M and Capquest without resolution of Mr S's request.

On 24 April 2024 Company M closed their account for Mr S and let him know it had been passed back to Capquest – with Mr S's request and queries still unresolved.

In May 2024 Mr S raised a complaint with Capquest who provided him with their findings on 10 July 2024 explaining the evidence he had supplied was not enough for them to agree writing off his debt. Capquest offered £50 for poor service Mr S had experienced from them. Mr S followed up with Capquest about their findings, but they did not alter their position and offered Mr S a further £50 for further poor service.

Our Investigator considered the matter but did not uphold Mr S's complaint. In summary, they said Capquest had acted fairly in how they'd considered Mr S's request for a medical write off and the total of £100 was fair to reflect the poor level of service Capquest had provided to Mr S.

Mr S strongly disagreed. He said Capquest's consideration of his request to write off the debt had not been 'meaningful' or been given 'due consideration' under CONC. Mr S believed Capquest were measuring his request against a higher bar than that of the Department of Work and Pensions (DWP) who had deemed him unable to work and did not expect him to look for work.

Provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I am aware of how important this matter is to Mr S and I am sorry to learn of his personal and financial difficulties. I would like to assure Mr S that while I have only included a summary of what has happened, I have reviewed all the available evidence and submissions. The parties will note I have not responded to each individual point raised, rather I have focused on what I consider to be the relevant issues to fairly resolving the case at this time.

I think it would also help to explain the role of this service is to decide what is fair and reasonable in the circumstances of the individual complaint, so it is not for me to fine or punish a firm, or interfere with their systems, controls or processes. Those are considerations for the regulator, the Financial Conduct Authority (FCA).

And before setting out my provisional findings, I think it important to note, for context, Capquest do not own Mr S's debt as his debt is owned by Company N; however, Capquest have the responsibility for servicing Mr S's debt on Company N's behalf so the decision whether to write off the debt, in the circumstances of this case, rests with Capquest.

Mr S has criticised Capquest for their lack of care towards him as a vulnerable consumer. And given Mr S's health challenges and financial struggles I think it fair to recognise his circumstances as vulnerable. So what were Capquest's obligations and responsibilities?

The FCA's handbook of rules and guidance includes CONC (the Consumer Credit sourcebook). CONC 7.3 sets out the rules and guidance for firms when dealing with customers in default or arrears and reminds firms of their obligations to treat their customers fairly, with forbearance and due consideration. And alongside CONC sits the FCA's guidance on the fair treatment of vulnerable customers.

Mr S also mentioned the Equality Act 2010 in his submissions to this service, but it is important to note that while I've taken this into account, it is not for me to say if there has been a breach of the Act – only the court can decide that.

There is nothing within the regulatory framework (or elsewhere) which sets out in what specific circumstances a firm should write off an individual's debt for medical reasons, or what specific evidence a firm might require in order to do so.

As I am sure Mr S can appreciate, the characteristics of an individual's health and how they are impacted are personal to each individual and can fluctuate or change over time making it difficult for any write-off requirements to be prescriptive. So each case must be fairly and individually considered.

As noted earlier, when Mr S first asked for his debt to be written off he submitted an I&E and two medical letters to support his request.

It is not in doubt Mr S is unwell and has found himself in difficult financial circumstances. But Capquest have explained the medical evidence provided by Mr S is not enough for them to agree to write off his debt for medical reasons. They note there is no prognosis of Mr S's health in either of the medical letters Mr S provided and one of them references that Mr S was seeking work around the time of that letter. In the circumstances I think Capquest fairly considered Mr S's request based on the evidence they had available to them. And while it

currently stands that Capquest have declined Mr S's request, I note they remain open to further reviewing it – which I think is fair.

That said, I have also considered Capquest's direct engagement with Mr S and their indirect engagement with him through Company M, and I think here Capquest have fallen short as I'll explain.

Capquest appear to have limited their responsibility to Mr S from 24 April 2024 when Company M returned the debt to them to manage; however, as noted earlier, the decision to write off the debt rested with Capquest in this case and, in the circumstances, I therefore consider it reasonable to consider Capquest's engagement with Mr S's request from December 2023 when Company M first passed his request to Capquest to consider.

Mr S was – at the time of making his request – in a vulnerable position (something I think Capquest would have been aware of given the nature of Mr S's request to them) and I am mindful of Capquest's responsibilities to provide customers with a level of appropriate care, ensuring fair treatment and recognising where a vulnerable customer may be susceptible to harm.

Company M shared Mr S's I&E with Capquest and the two medical letters he had submitted in December 2023. The documents were sent again to Capquest on other occasions, lastly in late April 2024 following Capquest's request for them to be sent again as they could not locate them. Company M forwarded the information once more and shortly after closed their account and returned the debt to Capquest – still with the outstanding balance of £7,312.66.

From the submissions available to me, it appears Capquest only let Mr S know that his medical letters were not enough to support his request when they responded to his complaint on 10 July 2024.

Prior to that – and still while Company M were involved in the matter – there were some attempts to obtain information from Mr S, some of which he provided (such as telling Company M / Capquest which of his other debts had been written off and details of his benefits) and other information which he did not provide and queried the relevance of (notably questions about whether he owned his property or was a tenant, and who he lived with). Capquest also queried through Company M what advice Mr S had received from the debt charity he had dealt with, but it's not clear this question was passed on to Mr S.

Mr S asked Capquest, via Company M, why they were not giving his request meaningful consideration. Company M put this to Capquest on Mr S's behalf, but no response was provided while Company M were still handling Mr S's debt.

Company M's records support that until they returned collection of the debt to Capquest, they made several attempts to chase Capquest at various points in relation to Mr S's queries about his request.

In view of the above I have not seen enough to say Capquest acted unfairly when reaching their decision to decline Mr S's request to write off his debt when they did; however, it appears Capquest took several months to let Mr S know his medical evidence was not enough for them to write off his debt. And based on the submissions available to me I think Capquest could have done more to support their customer by suggesting what evidence or information would assist their further consideration of his request. By falling short here, I think this prolonged the issue for Mr S and added to his worries at what was already a difficult time – I note Mr S has told us he has not worked for the last four years and has shared that his health has worsened since he first made his request to Capquest.

In the circumstances I do not think £100 fairly reflects the impact to Mr S in this matter. I am sorry to learn his situation has not improved and I'm mindful financial compensation does not change the status of Mr S's debt nor does it change what has already happened, but I do think a total of £300 more fairly reflects the upset and inconvenience Mr S has experienced in engaging with Capquest (directly and indirectly) about this debt.

I understand Mr S has already received £50 of the previous £100 offered by Capquest, so I propose Capquest pay £250 directly to Mr S to put this matter right.

I understand Mr S's circumstances have changed since his initial request to write off the debt was made, so I leave it to Mr S to contact Capquest afresh to discuss his debt and current circumstances with them. I am aware of Mr S's submissions about the reasonableness of any request to understand his ability to work in the future, and I would say while it's not possible to know what may or may not happen in the future it is not unreasonable for a firm to request evidence and ask questions to better understand their customer's overall circumstances and the likelihood of their ability to pay their debt in the future.

I have noted Mr S said Capquest harassed him about his debt once it was returned to them from Company M. But at this time I have not seen anything that reasonably amounts to harassment. As it stands Mr S's debt is still owing and it is reasonable for Capquest to attempt collection.

That said, going forward I expect Capquest to treat Mr S fairly, with forbearance and due consideration.

Overall I think Capquest fairly considered Mr S's request for a medical write off, but I uphold Mr S's complaint in part to recognise Capquest could have done more to support their customer while his request was being considered.

Responses to my provisional decision

Mr S disagreed with my provisional findings. He said Capquest explicitly said they would not consider his request and they maintained that position for months. Mr S said he'd not worked since 2020, had no disposable income and repeatedly told Capquest he did not have funds to offer a repayment plan and no other alternative action was offered, which Mr S believed – in the absence of any other option – left the consideration of a write-off.

Mr S explained he was not demanding a write-off, rather simply pointing out that when no other option exists it would be necessary for Capquest to consider that option – especially when other creditors had accepted the same evidence and written off his other debts.

Mr S also explained the impact to him had not been minor as his health has continued to deteriorate. He submitted a more recent letter from a medical professional to support this and said Capquest's inaction was worsening his situation. Mr S therefore believes compensation in the region of £750 or more would be appropriate, and more in keeping with awards for vulnerable consumers.

Capquest replied to my provisional findings. They confirmed that both cheques for £50 had been cashed. And having reviewed the provisional decision they confirmed they would agree to the additional compensation proposed. Capquest offered no further evidence or submissions for me to consider.

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 have reviewed Mr S's complaint afresh together with the most recent submissions. Having done so, I have not found enough to persuade me to alter the position I reached in my provisional decision. I recognise this will be a disappointment to Mr S and my further review and conclusions here are not intended to be dismissive of what Mr S has shared about his circumstances, rather I must consider what I think is fair and reasonable in the circumstances of this case.

Mr S maintains Capquest said they would not consider his request and this was a position they maintained for months. However, I would like to assure Mr S that I've seen nothing suggesting Capquest were not open to considering his request. While Capquest's final response letter to Mr S dated 10 July 2024 said, '*Capquest have refused to review your MWO request*' this is set out in a paragraph describing Capquest's understanding of the complaint. And I don't find Company M's reference to Mr S that Capquest would not recall the debt is enough either to say Capquest were refusing to consider Mr S's request. I think it is more the case Capquest simply took too long to respond to Mr S with their position.

I note Mr S is frustrated with the reference to Capquest having 'fairly' considered his request to write off the debt. So it may help to explain that my findings were (and are) that while there was a delay in their review of Mr S's evidence Capquest acted fairly by reviewing the evidence and explaining it was not enough for them to write off his debt at that time given there was nothing to suggest Mr S was unable to work and there was no explanation of how Mr S's conditions impacted his ability to repay his debt. So I remain persuaded Mr S's request was fairly handled once Capquest considered it, albeit they took a while to reach that position and it was not the outcome Mr S wanted.

Mr S's view is that in the absence of any alternative option for managing this debt it should follow for the debt to be written off. As I set out previously, there is no specific set of circumstances listed as to when a lender should write off a debt or list of evidence that a customer should provide to support such a request. It is up to each lender to consider each individual case, remembering their responsibilities to treat their customers fairly, with forbearance and due consideration.

In reply to this provisional decision Mr S provided more recent medical evidence, but as this is new evidence and falls past the events of the complaint I have the power to consider, as set out in my provisional decision, I leave it to Mr S to engage with Capquest afresh and share any new evidence with Capquest to review his request again and update his circumstances – particularly as more than a year has now passed since Mr S first asked Capquest to consider writing off his debt for medical reasons.

Lastly I have revisited the non-financial impact this matter has had for Mr S and whether the award for distress and inconvenience should be increased as Mr S has proposed.

As I've previously said, it is not in doubt Mr S's circumstances are difficult and continue to be so. While I think Capquest did consider Mr S's request for a medical write off and it was not the outcome Mr S wanted, the time it took for Capquest to do this was several months. This is disappointing.

Capquest were aware of Mr S's request from late December 2023, but they did not let Mr S know their response to what he had asked until July 2024 when they issued their answer to his complaint. But I think it's fair to say that from July 2024 Mr S was made aware of Capquest's position, even if he did not agree with it.

To reflect the trouble and upset caused to Mr S in relation to this delay in considering his request, given Mr S's vulnerable circumstances and the lack of support and engagement from Capquest offered to Mr S during this time, I remain persuaded that £300 is a fair reflection of the distress caused. I recognise this is not the sum Mr S is seeking, but overall I think it reasonable in the circumstances. Events that have happened since Capquest considered Mr S's complaint and the manner of any further engagement between Mr S and Capquest since then would now be a separate matter.

I strongly remind Capquest of their responsibilities to engage and support their customer to find a fair way forward to avoid foreseeable harm and of their obligations to treat their customer fairly, with forbearance and due consideration.

Putting things right

As Mr S has already cashed £100 of the £300 I think is a fair resolution to this matter, Capquest Debt Recovery Limited should pay Mr S £200.

My final decision

For the reasons above, my final decision is that I uphold Mr S's complaint in part and Capquest Debt Recovery Limited should put things right as I've described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 June 2025.

Kristina Mathews
Ombudsman