

complaint

Ms C complains that Capquest Debt Recovery Limited:

- pursued her for debts that weren't hers, and which were statute barred.
- took too long to respond to her.
- gave her information which was incorrect or misleading, and didn't give her documentation she requested.
- were aggressive in seeking repayment of the debt and caused her distress.
- didn't treat her confidential data appropriately.
- didn't update her credit record to ensure it was accurate.

background

In July 2013, Capquest Debt Recovery Limited acquired four debts in Ms C's name. They wrote to her at the address they had for her to try to arrange payment of these debts. When they got no response, further letters followed which warned what action may be taken if payment wasn't made.

Ms C says she didn't believe the debts were hers and she asked Capquest for more details. She says that they took too long to reply to her, and the account numbers they gave her didn't match the numbers for any accounts she remembered having. She says she still couldn't be sure that the debts were hers, as they didn't send her any documentation. She also thought that, even if the debts were hers, they were statute barred.

Ms C says that around this time a debt collector visited her address. When he found she wasn't home, he left a letter with her neighbour. She says she found the contents of that letter, and the fact that her home had been visited, upsetting. She thinks the debt collector acted on behalf of Capquest. They deny this.

Capquest say the debts aren't statute barred. They say they obtained County Court Judgements (CCJs) for three of the debts and the court later agreed to set two of those CCJs aside. Ms C complained to us. She still felt the debts were statute barred. She felt that some of the debts shouldn't be pursued anyway because of the way the original lender had acted. She also thought that Capquest hadn't treated her confidential data properly.

The adjudicator considered the case and explained that there were parts of her complaint that our service may not be able to deal with. We can't say whether a debt is statute barred - only a court can do that. He said that any complaints she had about the original lender should properly be made to them, not Capquest.

He thought that there was no evidence to link the debt collector who'd come to her address with Capquest. He didn't think we could hold Capquest responsible for the distress caused to her by that visit. He didn't think they'd given her misleading information but he did agree they'd taken too long to respond to her questions. Capquest had originally offered £50 compensation when Ms C had complained to them but he thought this should be increased to £200 to reflect the distress and inconvenience caused.

Ms C didn't accept the adjudicator's view. She says she's sure that the debt collector who visited was there on behalf of Capquest. She doesn't feel £200 compensation offered is enough. She feels Capquest misled her, don't have the right to pursue her for these debts and have failed to take account of her health issues when dealing with her. She also says that the two CCJs which have been set aside are on her credit file when they shouldn't be.

my findings

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

I broadly agree with the adjudicator's view about the aspects of Ms C's complaint we can't deal with. We can't address issues that relate to another financial business as part of this complaint. While we can deal with issues relating to credit files, there's no evidence that the credit search carried out by Capquest caused any loss for Ms C. It's no longer on her credit file in any event. I agree that it's for a court to say whether a debt is statute barred - I've seen nothing to indicate that they've done so.

We can look at whether a financial business has followed relevant rules and guidance when pursuing the debt. Capquest acquired four debts. In relation to three of the debts, Capquest's records show that they asked Ms C to pay the debt within five years of her last payment. There's nothing to suggest any breach of the rules or guidance. I don't have any evidence about the date of the last payment on the fourth debt but I'm satisfied it is unlikely to have been pursued inappropriately because:

- the court made a CCJ in relation to that debt;
- Ms C has been making payments following that CCJ.

Ms C accepts that she was contacted by Capquest. She didn't respond to letters at first but then wrote back. She didn't accept she was responsible for the debt – she just asked them for more details.

Capquest sent details of the accounts they'd acquired. I'm satisfied that Ms C was given enough information to allow her to identify the accounts. Capquest sent details, which included account numbers. Ms C says that they didn't send her statements of the accounts. I think it's reasonable to expect that the account numbers would be enough to allow her to identify the accounts. I agree that it took Capquest too long to give her this information. They've now agreed to pay £300 compensation. I think this is fair.

Ms C told Capquest about her health issues when she contacted them to arrange to pay. They asked her to provide some information to support what she'd told them and said they would take this into account. I've seen nothing to suggest that they've been unsympathetic to her health issues.

Ms C has provided her credit file, which shows that the two CCJs which were set aside are still recorded. Capquest's records shows they were set aside and they have agreed this is accurate. The Information Commissioner's Office says:

"Data that is reported on your credit file must be fair, accurate, consistent, complete and up to date."

Capquest accept that the two CCJs were set aside. I would expect them to remove those CCJs from Mrs C's credit file to ensure that it's accurate and up to date.

While the CCJs have been set aside, this doesn't mean that Capquest can't ask her to pay the debts. I would hope that they would respond sympathetically and positively to Ms C should she raise any financial difficulties with them.

I know that Ms C feels very upset about how the actions of Capquest have affected her. I realise that she may be disappointed with the outcome of this complaint but I believe it is a fair one. We offer an informal dispute resolution service and we have no regulatory or disciplinary role.

my final decision

My final decision is that in order to settle the complaint Capquest Debt Recovery Limited should:

- pay Ms C £300 compensation.
- Remove the two CCJs which have been set aside from her credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 3 May 2016.

Nicola Crabb
ombudsman