

## **complaint**

Mrs W complains Capquest Debt Recovery Limited (Capquest) is asking her to pay back more than she owes.

## **background**

Mrs W was contacted by Capquest about a debt originally taken out with another business (B). Capquest's parent company (C) bought the debt from B and asked Capquest to collect the debt from Mrs W. Mrs W acknowledged she owed some money, but thought it was around £5,000, not the £18,000 she was being asked to pay back. So she contacted Capquest to complain.

Capquest looked into Mrs W's complaint and contacted B to get some more information. B said the debt relates to a loan that was taken out to consolidate three debts Mrs W had – an overdraft, credit card and another personal loan.

B didn't have a lot of documentation available because of the age of the accounts. But it did have some statements and details of previous complaints raised by Mrs W. So after considering everything provided by B, Capquest felt the full balance was due from Mrs W, but it apologised for the length of time it took to investigate and respond to her.

Mrs W wasn't happy with Capquest's response so she asked us to look at her complaint. She explained she didn't borrow the amount she was being asked to pay. She also said the account numbers included in Capquest's response weren't correct and was unhappy there was no copy of a loan agreement available.

Our investigator considered the complaint but didn't uphold it. He said the account number that was used related to a closed account. But he explained that B only used one account number when they passed Mrs W's debts to their own debt collection department. And this was the account number used when the debt was sold to C.

Our investigator didn't think there was enough evidence to show the balance Capquest was requesting was incorrect either. He thought the statements for the loans were accurate and also set out what the debt related to.

Mrs W didn't agree, so the complaint has been passed to me for a final decision.

## **my findings**

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

It's not in dispute Mrs W held accounts with B and borrowed money from them. She also remembers consolidating her debts. It's concerns around the account numbers used, missing agreements, and a dispute about the amount being requested by Capquest that have caused the complaint.

To start with, I have to be clear the complaint I'm looking at is whether Capquest is entitled to collect the debt from Mrs W. I'm not looking at how the debt was sold by B. And having looked through what's been said and provided, I think it's more likely than not the amount being requested by Capquest is correct.

### *account number*

When Mrs W first spoke to our service she told our investigator her biggest issue was with the account number. She said the account number was for someone else. And so if she thought this, I can understand why she was concerned.

It came to light the account number on Capquest's paperwork did belong to one of Mrs W's accounts. Mrs W agreed. But she told our investigator she was confused because the account number related to a joint account, which wasn't linked to the loan. Mrs W said the monthly payments for the loan wouldn't have come out of the joint account. But the statements don't show the loan's monthly payments came from the joint account. In fact, Mrs W has sent us a copy of her sole account statement showing this was the account that paid the consolidation loan.

During a later call, Mrs W felt the account number provided suggested the whole debt was from the joint account. But this isn't the case. The small joint account debt was combined with Mrs W's other borrowing when the debts were consolidated.

The account number used by Capquest and B didn't match the loan account numbers so I can understand why this caused some confusion. But as our investigator explained to Mrs W, after speaking to Capquest, the account number was a lead account number used by B to ensure all her records were kept together. The explanation is plausible and I think it's more likely than not this is what happened.

Overall, I'm satisfied the account number was for one of Mrs W's accounts. There's a reasonable explanation for why B used the account they did. And there's sufficient evidence to show what accounts the debt relates to.

### *loan agreements*

Capquest wasn't able to get any of the loan agreements for Mrs W. I can understand why Mrs W is unhappy about this. It would've been helpful to have seen copies of what was signed when the loans were taken out. But I have to bear in mind that the loans were entered into a long time ago. And businesses don't keep records indefinitely. The absence of a loan agreement doesn't automatically mean the debt isn't repayable. And in this case, I'm not going to ask Capquest to reduce the amount of money it's requesting because there's no loan agreement.

### *outstanding balance*

Capquest sent Mrs W some account statements, which she's forwarded on to us. I can see regular payments were made to both the loans. And Mrs W sent us a statement showing she made payment to the consolidated loan. I think it's more likely than not she made all the payments showing on the loan statements.

It's also likely she would've been sent account opening information when the loans were entered into, as well as periodic statements. Had there been any concerns about the payments from her current account, or with information on the periodic loan statements, I would've expected Mrs W to have raised these at the time. Particularly given the big difference in what she was being asked to pay compared to what she thought she owed.

Capquest told us Mrs W raised two complaints not long after the consolidation loan was taken out. One was about a rebate of interest, and one (referred to B by the Financial Ombudsman Service) was about the affordability of the loans. Mrs W doesn't remember making the complaints. But B said they spoke to Mrs W about the first complaint on the phone, and they've shown us details of a letter they sent her about the second complaint. So I believe it's feasible Mrs W did contact B about the consolidation loan and had some details about it.

Mrs W stopped making her full contractual payments for a few months not long after B wrote to her about the affordability of the loan. But then Mrs W started to make token payments towards the debt. These were made most months for a few years up to the point the debt was sold on to C. So it's likely she would've been contacted on various occasions over the term of the loan with details of what she was paying back and what was owed.

When the debt was sold to C, Mrs W was sent a letter letting her know what was happening. And it also gave details about how much money was owed at that time. As the amount owed is significantly more than what Mrs W thought it should be, I would've expected her to have contacted B or Capquest much sooner than she did. But Mrs W continued to make token payments towards the debt for a significant amount of time afterwards. This is consistent with someone who owed the money.

All things considered, whilst it would've been helpful if we had some more information from the time the loans were taken out, for the reasons I've explained, I believe there's enough evidence available to allow Capquest to collect the debt.

### **my final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 27 December 2017.

Simon Wingfield  
**ombudsman**