

## **The complaint**

Mr U complains about Charterhouse Claims Limited ("CCL") and their decision to invoice him for their settlement fee on successful mis-sold Pay Day loan claims where his refund was used to reduce his arrears.

## **What happened**

Over the course of 2019 and 2020, Mr U signed several Letters of Authority (LOA) instructing CCL to pursue claims for mis-sold Pay Day loans against several lenders on his behalf. By signing these LOA's, Mr U agreed to be bound by the terms and conditions of the agreement with CCL.

CCL pursued several claims, and many of these were successful. For many of the successful claims, Mr U had outstanding arrears with the lenders and so, any refund was used to offset his arrears meaning he didn't receive a direct cash settlement. And Mr U was unhappy in these situations, CCL still invoiced him for their fee, meaning he ultimately ended up with an additional debt he didn't have to begin with. So, he complained to CCL, explaining he wanted CCL to write off his debt, which had since been passed by CCL to a debt recovery company, who I'll refer to as "D". And he wanted any payments he'd made to D to be refunded to him, plus interest.

CCL responded to the complaint and didn't uphold it. They thought it was made reasonably clear to Mr U in the terms and conditions of the agreement he entered into that, where a refund was used to reduce his arrears, they would still expect payment for their own settlement fee. So, they didn't think they had acted unfairly when invoicing Mr U. But they did recognise Mr U's comments about the impact on his mental health, and they referred him to organisations that could support him with this, and his outstanding debt. Mr U remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and didn't uphold it. They recognised Mr U's point of view, and the impact the situation had on his financial situation and his mental health. But they thought the terms and conditions of the agreement Mr U entered into with CCL made it clear that, should any refund they secure be used to reduce his outstanding debt, they would still expect payment of their invoice. And our investigator explained this was usual industry practice. So, our investigator didn't think CCL needed to do anything more on this occasion. Mr U didn't agree and so, the complaint has been passed to me for a decision.

## **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.

Having done so, I'm not upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mr U. I don't doubt the financial difficulties Mr U was experiencing at the time of the claims, and the difficulties he's faced since. I recognise Mr U instructed CCL to pursue claims for mis-sold Pay Day loans on his behalf, with the intention of improving his financial situation. So, when CCL invoiced Mr U for settlement fees he couldn't afford to pay, I recognise why he'd question the actions and motives of CCL, as effectively a new debt was created which conflicted with his original intentions. Because of this, I can understand why Mr U feels CCL acted unfairly and why he'd wanted his debt with them written off, plus a refund of what he's already paid.

But for me to say CCL should do something more, such as the actions Mr U has requested, I first need to be satisfied CCL have done something wrong. So, I'd need to be satisfied CCL acted outside of the terms and conditions of the agreement Mr U held when invoicing him for their fees. Or, if I think they did work within these, I'd need to be satisfied CCL acted unfairly in some other way. And in this situation, I don't think that's the case.

I've seen Mr U signed several LOA's instructing CCL to pursue claims on his behalf over several years. While I recognise Mr U's comments about CCL's sale tactics, I wouldn't have expected Mr U to continue to engage with, and use the services of, CCL if he felt he was being pressured in a way he felt was unfair. So, from the information I have available to me, I'm satisfied Mr U authorised CCL to act on his behalf and that he did so based on his own decision making, through his own choice.

And when Mr U signed the LOA's instructing CCL to act on his behalf, I can see each LOA stated clearly in bold, above the signature section, that *"You should only sign this document if you have read and agree to the Letter of Authority, Terms & Conditions and the Company's Privacy Policy"*. And included within this statement was a link to the terms and conditions.

So, before signing the LOA's, I'd expect Mr U to ensure he clicked the link to read the accompanying terms and conditions. And as he did sign them, I think CCL were fair to assume Mr U agreed to be bound them.

I've read through the terms and conditions. And these explain under the heading *"Our Fees"* that CCL would charge a 35% plus VAT success fee for any compensation Mr U received. And the terms go onto explain *"You should be aware that compensation means benefit which you receive as a result of our service, there may be situations where the compensation is credited to your loan balance, and you will still have to pay our fee"*.

So, I think this condition makes it reasonably clear that, where a lender chooses to offset or reduce an outstanding debt Mr U had, CCL would still require payment of their success fee. So, where CCL have done this, I think they acted within the terms and conditions of the agreement Mr U entered into when doing so. And I must stress that this falls in line with standard industry approach in the same circumstances.

But as I've explained above, as well as ensuring CCL acted within the terms and conditions of the agreement, I've also thought about whether they were fair to do so.

I've seen many instances where, when a lender explained some or all of the refund would be used to reduce an outstanding debt, CCL asked Mr U whether he wished to accept the offer first. And I've seen no evidence to show Mr U ever queried this, or rejected an offer put forward by a lender. So, I think CCL gave Mr U a reasonable opportunity here.

And it's also important to note that by reducing the debt Mr U owed, Mr U was receiving a financial benefit, as he had less debt to repay to the lenders involved. So, I think the service CCL provided to Mr U was a benefit to him and because of this, I think they were fair to

expect payment for the service they provided.

While I appreciate Mr U sees CCL's fees as an additional debt, it's important to note their success fee was for less than the refund Mr U received. So, although Mr U feels as though he has ended up with more debt than he had originally, this isn't the case from a financial perspective. While Mr U may have additional debtors to pay, the amount he needed to repay was significantly less, following CCL's involvement. So, I can't say that CCL have acted unfairly here. And because of this, I don't think they need to do anything more on this occasion.

I understand this isn't the outcome Mr U was hoping for. And I recognise Mr U has needed to enter into a debt management plan with D, as he was unable to pay CCL directly within the timeframes they expected. But any debt management plan he has agreed is separate to this complaint. And I am glad to see Mr U has been able to agree a repayment plan, which I hope would be affordable to him. If this isn't the case, this will be something he needs to raise with D directly. I'm also pleased to see that, in response to Mr U's complaint, CCL provided signposting to several organisations that can support Mr U with his mental health, and financial situation. This is what I'd expect CCL to do, and I think it shows them acting in good faith to try and help Mr U where possible, considering they didn't do anything wrong on this occasion.

### **My final decision**

For the reasons outlined above, I don't uphold Mr U's complaint about Charterhouse Claims Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 19 December 2023.

Josh Haskey  
**Ombudsman**