

The complaint

Ms C is unhappy that Quickly Finance Limited trading as Fast Track Reclaim (FTR) is charging a success fee for a payment protection insurance (PPI) claim.

What happened

In August 2019, Ms C said she'd made an enquiry with FTR about whether she'd been mis-sold PPI with any of her lenders. Ms C said she'd never authorised FTR to pursue any claims for her. And hadn't signed any of their forms. When she was sent documents to complete, Ms C said she messaged FTR to say "*No Thanks*".

In February 2020, Ms C was told by one of her lenders I'll call "L" that she'd been mis-sold PPI, they offered her compensation for this. In July 2020 FTR sent Ms C an invoice asking her to pay their fee for her successful PPI claim. Ms C complained to FTR.

FTR said Ms C had signed an LoA in August 2019 and they'd submitted this to "L". They said Ms C hadn't cancelled her agreement within the 14-day cooling off period. They said the PPI questionnaire was only asked for to strengthen Ms C's claim and hadn't been needed as her lender had "auto converted" her claim based on the LoA they'd sent. As Ms C's claim was successful FTR said their fee was justified.

Ms C wasn't happy with FTR's response, she said she hadn't authorised FTR to act on her behalf and the signature on the LoA wasn't hers. She referred her complaint to us.

Our investigator said that Ms C hadn't returned any of the documentation FTR had asked her to complete. And she'd let FTR know she didn't want them to pursue a PPI claim for her. She said FTR should waive their fee.

FTR didn't agree, they said Ms C had agreed to their terms and conditions. The lender had auto converted her claim, and she hadn't followed the terms and conditions in cancelling the agreement. FTR asked for an ombudsman to decide.

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 upholding this complaint. I'll explain why.

We're an informal dispute resolution service, acting as an alternative to the courts. This means we're impartial and look at both sides of the story. We don't place more weight on one side's story because of who they are. We ask questions and weigh up all the information we're given. Where there is a different version of events as is the case here, I base my decision on what I think most likely happened.

FTR feel strongly that Ms C agreed to use their services and that it was because of their

enquiry her claims with “L” were successful. I can also understand Ms C’s frustration as she doesn’t think she’d authorised FTR to act on her behalf.

It’s not in dispute that Ms C made an enquiry with FTR about a PPI claim. But she says she didn’t authorise FTR to act on her behalf. In making my decision I need to determine whether it’s more likely than not that Ms C had authorised FTR to act on her

behalf. And if she had, whether they knew she no longer wanted them to work for her. I will also consider whether FTR has acted fairly and reasonably in their actions with her.

FTR has shown an online application was made about mis-sold PPI for Ms C’s lender “L” in August 2019, two days before the deadline for making such claims. The personal details in this application correlate with the personal details Ms C has given this service.

I’ve looked at FTR’s web journey application process. FTR has shown the screens Ms C would have gone through. The screen shows a statement that says:

*“Isn’t it time you checked for PPI. * Free PPI check”*

And below is a box that says *“How it works”*. And includes the wording:

**Free PPI check. Once PPI is identified, the Free PPI Check Period ends and we will continue to work on preparing, submitting and negotiating your Claim(s). Our fee of 24% inclusive of VAT will be payable on all successful claims as per the Terms of Engagement.*

The *Free PPI check in this wording was bolded in red and the asterisk linked it to the headline statement. The screen also had a link to the Terms of Engagement.

The next screens asked for information from Ms C about her personal details and lenders. On completing the application, FTR has said there is a need for a box to be ticked to show the terms and conditions had been agreed, and it’s then a LoA would be generated, populated with the information provided in the application. FTR said the LoA can only be submitted with a signature. There wasn’t a requirement to add a date.

FTR has shown an audit trail for the application which shows the personal details provided. So, on balance I think Ms C authorised FTR to act on her behalf.

I will now consider whether Ms C cancelled her agreement with FTR.

As outlined above FTR’s terms and conditions were available to see. FTR’s terms and conditions say:

“Once PPI is identified, the Free PPI Check Period ends and You authorise FTR to continue to provide You with the Claims Services.”

And go on to say:

“You may cancel Your Claim(s) at any time within 14 days from the date you sign the Letter of Authority [‘Cooling-off Period’) at no cost to you, unless you or FTR have received a reasonable offer of Compensation within the Cooling-off Period.”

And give details of the various channels Ms C could have used to cancel the agreement, verbal, written or in person.

So, I've considered when the 14-day cooling off period would have started.

FTR's records show that they were notified by "L" that PPI had been found for Ms C's claim in December 2019. And I can see that Ms C was sent notification of this on 6 December 2019. The notification includes Ms C's FTR reference number and said "*you HAVE paid PPI and action is needed to receive your refund*". So, from this point FTR would have been providing their claims service. The same notification refers Ms C to a link to complete a PPI questionnaire. I can see from the messages sent by FTR that the success of any mis-sold claim wasn't reliant on the completion of the PPIQ, as they say "*you may be unable to claim PPI refund unless you have completed the PPI questionnaire*".

In 2019, leading up to the August PPI deadline many claims management companies (CMC) amended their terms and conditions in recognition of the expected high volume of claims. And reflected that lenders could investigate any claim based on a data subject request, as happened here. Any information provided in the PPI questionnaire could be used to strengthen the claim that the PPI policy was mis-sold. I can see from FTR's records that Ms C didn't return the PPI questionnaire. FTR has said that their fee is justified because Ms C's lender "auto converted", which means they investigated Ms C's claim based on the details they sent in the LoA. So, the PPI questionnaire wasn't needed for Ms C's PPI claim to be considered.

I can see FTR's terms and conditions say:

"Claim(s)' means Your Claim(s) and/or positive identification of PPI auto-converted to a claim by the Company."

But I haven't seen any notification to Ms C from FTR to let her know her claim had been auto converted. But the notification sent on 6 December 2019 is clear that PPI had been found.

FTR's terms and conditions say the 14-day cooling off period starts from "*the date you sign the Letter of Authority*" But at this point Ms C would have considered she was only agreeing to a free PPI check. So, I don't think the 14-day cooling off period for acceptance of FTR's claims service would start until Ms C was made aware that PPI had been identified.

And FTR's records show this wouldn't have been before 6 December 2019 when FTR sent notification to Ms C "*You Have paid PPI.....*" So I think Ms C would have had up to 20 December 2019 to cancel the agreement within the 14 day cooling off period.

I can see from FTR's records Ms C sent them a text message on 7 December 2019 in response to the above notification that said, "*No Thanks*". And this was within the 14 day cooling off period. But FTR didn't accept this as a cancellation as they told Ms C she'd to call them to discuss her claim.

I've considered the regulations relevant to this complaint. And FTR, as there was a right to cancel should have provided Ms C with a cancellation form. The regulations also say that to exercise the right to cancel Ms C needed to provide a clear statement and gives examples of the method for doing this, letter, fax or email. As FTR didn't provide Ms C with a model cancellation form. I've considered whether she'd made a clear statement.

Ms C received a text message that said "*To apply for a PPI refund you need to complete*

a short questionnaire....". Ms C's response was to say through the same communications channel "*No Thanks*". And from FTR's response they took this as Ms C wanting to cancel her claim but they didn't accept it as a cancellation because of the communications channel she used to do this. But the regulations don't say what channel must be used they only give examples, letter, fax or email. So, I don't think it was fair and reasonable of FTR to reject Ms C's cancellation simply because she'd sent it by text message. And I don't think it was fair or reasonable to place the onus solely on Ms C to contact FTR to discuss her claim, when FTR could have provided her with a cancellation form which is a requirement of the relevant regulations.

FTR has said as Ms C received an offer as a result of their submission of the LoA their fee is justified. But from the evidence I've seen I'm satisfied Ms C had told FTR she no longer wanted to use their claims service within the 14 day cooling off period. So, I don't think it's fair or reasonable for FTR to charge their fee.

My final decision

I uphold this complaint. And ask Quickly Finance Limited trading as Fast Track Reclaim to waive their success fee.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 1 September 2021.

Anne Scarr

Ombudsman