

## **The complaint**

Mr F is unhappy about the fee Allay Claims Limited is asking him to pay for a successful payment protection insurance (PPI) claim.

## **What happened**

In October 2018, Mr F had a successful PPI claim with one of his lenders I'll call "M". And shortly afterwards Allay asked him to pay their success fee. But Mr F said he hadn't received any redress from "M". And despite telling Allay this they continued to ask him for their fee while also saying they were chasing "M" for updates. Mr F said after a lengthy investigation it was found that his redress had been sent by "M" but cashed fraudulently. In July 2020 after he'd received the redress he paid Allay £800 in recognition of the work they'd done. But said the remainder of the fee £702.47 should be waived for the poor service he'd received. He complained to Allay.

Allay said Mr F had several claims for PPI and they'd provided updates about each case, which clearly referenced which claim they were providing the update about. They said they'd asked for their success fee for one of Mr F's claims after "M" had told them it was successful. And that Mr F would receive his redress within 28 days. Allay said the delay in Mr F receiving his redress wasn't because of anything they'd done. Allay said at times they'd put chasing for their fee on hold while the investigation by "M" was being carried out but agreed their customer service could have been better. To compensate Mr F for this they said they'd reduce their fee. As he'd already paid £800 the balance left owing would be reduced to £530.38 instead of £702.47.

Mr F wasn't happy with Allay's response he said the offer he'd made was fair and reflected Allay's lack of service and the amount of time he'd spent trying to get the matter resolved. He referred his complaint to us.

Our investigator said that Allay had acknowledged their poor customer service but didn't think the reduction reflected the trouble and upset caused to Mr F. She asked Allay to pay in total £300 for this.

Mr F didn't agree and reiterated the time he'd spent and the trouble that had been caused in getting his redress. He said Allay should have done more. He 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 partially uphold this complaint. I'll explain why.

I can understand Mr F's frustration as he was being asked to pay a fee for a claim he said he hadn't received any redress for. Being a victim of fraud can be a very distressing time so I'm pleased that after an investigation Mr F has now received his rightful redress.

It's not in dispute that Mr F authorised Allay to act on his behalf in pursuing mis sold PPI claims. Allay has accepted that their customer service had been poor at times which has added to the trouble and upset Mr F has experienced. What's still in dispute is the level of compensation Mr F should be paid to compensate him for this.

In March 2018 Mr F authorised Allay to act on his behalf. Mr F had three accounts with "M". a loan account, and two credit cards, \*\*\*\*6013 and \*\*\*\*9590. In September 2018 Allay updated Mr F about the loan account saying "M" hadn't found a PPI policy for this account. "M" confirmed they would investigate the mis-sold PPI claims for \*\*\*6013 and \*\*\*9590. In late November 2018 "M" said they didn't accept that there was a mis-sold PPI policy for \*\*\*\*6013.

I can see in September 2018 Allay sent a letter of complaint to "M" about \*\*\*9590. And in October 2018 "M" upheld this complaint and told Allay about the redress they'd pay Mr F to compensate him for this. I can see from "M"'s notification that they'd said the redress would be paid to Mr F within 28 days. In early November 2018 Allay sent Mr F an invoice asking him to pay their fee for his successful claim.

The agreement Mr F would have had with Allay was on a "No win No fee" basis. This means Allay charged a percentage success fee, not a fee based upon the amount of work they did. This meant any work done on any unsuccessful claims would be done for free. Where a claim was successful, Allay's fee maybe more or less than the value of the work they actually did. This is the risk taken by all parties in this type of agreement. Allay's terms and conditions say:

*"The fee will be payable to us immediately upon receipt of your refund."*

So, I don't think Allay acted unfairly or unreasonably in seeking their success fee after they were told by "M" the claim was successful and they'd expected the redress to have been paid within 28 days. Allay asked for a fee in line with their terms and conditions that Mr F had agreed to, 24% inclusive of VAT - £1,502.47.

But in December 2018 I can see Mr F told Allay he hadn't received any redress. And Allay put his account into a "*grace period*". This meant they wouldn't send any emails or text messages about their fee for a 28-day period. Giving Mr F time to check with "M" about his redress. At the end of the "*grace period*", Mr F told Allay that he still hadn't received any redress.

While I can understand Allay asking Mr F for their fee they didn't ask "M" directly as to what was happening until October 2019. I can see "M" would no longer discuss Mr F's claim with them as the claim had been decided upon. This meant that any updates about the payment of the redress was for Mr F to provide to Allay. I think Allay should have taken this action sooner and to have made Mr F aware it would be his responsibility to keep them updated about the ongoing investigation into the missing redress. Instead Mr F I think was of the understanding that Allay was checking in with "M" about what was happening.

Allay has accepted they fell short in their customer service and should have made greater use of the "*grace period*" option while Mr F's missing redress was being investigated. And by not doing so they did add to the trouble and upset Mr F experienced during this time. Allays terms and conditions say:

*“We have the right to reduce the % fee charged to you upon successful completion of your claim(s).”*

Allay has used this term to reduce Mr F's fee in recognition of their shortfall in customer service. As Mr F has already paid £800 this meant the outstanding fee has been reduced from £702.47 to £530.38.

As outlined above the agreement Mr F had with Allay was on a No Win No Fee basis and his claim was successful, so I think Allay is justified to claim their fee. But I don't think the reduction in the fee fully compensates Mr F for the trouble and upset he's experienced. His claim was successful in October 2018 but it wasn't until July 2020 that he received his redress. I can't hold Allay responsible for the delay as the missing redress wasn't as a result of anything they'd done. But they could have provided a better customer service to Mr F while he was going through this difficult time. And I agree with our investigator that £300 in total (inclusive of the fee reduction) would be a fair and reasonable amount to compensate Mr F.

I know Mr F will be disappointed by my decision, but it isn't our role to punish a business. And I think £300 is fair and reasonable.

### **My final decision**

I partially uphold this complaint. And ask Allay Claims Limited to:

- pay Mr F an additional £127.91 for the trouble and upset that's been caused on top of the £172.09 fee reduction – in total £300

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 19 May 2022.

Anne Scarr  
**Ombudsman**