

The complaint

Miss M complains that Employment Law 4 U Ltd (EL4U) pressured her into accepting their services.

What happened

Miss M had already started the process of an Employment Tribunal claim, when In June 2022 she said she sought to engage a solicitor to help her as she was struggling with the level and detail of the responses needed for her claim. She looked at the services offered by EL4U and after some discussion was considering their terms and fees before agreeing to use them. But after sending an email to EL4U questioning the level of fees they'd look to charge, Miss M said she was told that work had already begun and a fee would be charged for this if she didn't take EL4U's services further.

Miss M said she didn't think she had any choice as she couldn't pay the cancellation fee and so she signed EL4U's letter of engagement (LoE). But Miss M said she was concerned about the financial impact this would have on her, so she asked to cancel the agreement. EL4U said they'd remove themselves from being Miss M's representative and offered a discounted fee of £750 for the work they'd done for her to resolve the matter.

As neither party could agree a resolution Miss M referred her complaint to us.

Our investigator said EL4U had done work for Miss M prior to her signing the LoE. He said he was persuaded that Miss M was still considering the services of EL4U and only agreed to using them when she was told she'd have to pay for the work they'd already done for her – estimated to be around £900. He didn't think EL4U had provided enough information to Miss M about what they would be doing before she'd formally agreed to use their services. He said if they had it was most likely that Miss M wouldn't have agreed to this before signing the LoE. He said EL4U should waive all fees and charges.

EL4U hasn't responded to our investigator's outcome so Miss M's complaint has been referred to 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.

I know EL4U feel strongly that there'd been a verbal agreement in their phone discussions with Miss M but neither party has provided this evidence as the calls weren't recorded. So where the information I've got is incomplete, unclear or contradictory, as some of it is here, I must base my decision on the balance of probabilities. Having done so I uphold this complaint. I'll explain why.

I can see Miss M first contacted EL4U at the end of May 2022. And EL4U offered their services after an “*initial discussion*” on a No Win No Fee basis with a success fee of 35%. EL4U sent the LoE, pre contract information their terms and conditions and a cancellation form to Miss M on 01 June 2022.

I’ve considered these, EL4U’s terms and conditions say:

“Our engagement will commence from the earlier of either (1) the date on which we first act upon instructions given by you in respect of a particular matter or (2) the date of our relevant engagement letter.”

And the terms and conditions give Miss M the right to cancel within 14 days of signing the LoE.

Miss M after considering the terms and fees sent an email to EL4U on 05 June 2022 as she’d understood that she’d pay a fee for time spent capped at a maximum of 25%. In response EL4U told Miss M they considered she’d agreed to the use of their services in their phone discussions, and to end the agreement she’d need to pay their fee for three to four hours work they’d done for her. EL4U in their pre contract information and engagement letter said they would charge £225 per hour exclusive of VAT. But I can also see in EL4U’s pre contract information that under cancellation it says if Miss M cancelled the contract – that being No Win No Fee – before it was resolved Miss M would pay £180 per hours plus expenses. But at this point Miss M hadn’t signed the LoE. So, I think this led Miss M to estimate this fee to have been around £675 to £900.

EL4U has provided an itemised bill for the work they carried out for Miss M before the agreement was cancelled. The key dates I think are from 30 May 2022 to 05 June 2022, the initial discussion until Miss M questioned EL4U’s terms and fees. From the information provided by EL4U for the work they say they did I can only equate a total of two hours, not the three to four that they told Miss M they’d done (this excludes the initial discussion as this was a free consultation). From the itemised bill the work described consisted of a general discussion with Miss M, and emails sending the pre contract information, terms and conditions, cancellation form and chasers for the return of the client questionnaire and LoE.

I haven’t seen any evidence that EL4U had done any work on a particular matter for Miss M’s employment tribunal claim. Or that Miss M had given instructions about a particular matter. I can see that in the email trail Miss M had said “*I will wait to instruct you officially*” and for responding to the tribunal EL4U said they “*would reply after getting signed LoE.*” So, I’d consider EL4U’s engagement wouldn’t start until the date of the LoE which Miss M signed 06 June.

I’ve now considered Miss M signing the LoE. I think from the email Miss M sent 05 June to EL4U she was still considering whether to engage their services as she was questioning the level of the fee they would charge. But after EL4U said if she didn’t go ahead she would have to pay for the work they’d done, I think its clear from Miss M’s response that she was put into a position where she felt she had to agree to the use of EL4U’s services as she didn’t have the money to pay the fee EL4U said she would owe them. And as outlined above I think the inference given by EL4U as to the fee Miss M would owe them was over inflated. And I don’t think any fee would have been owed by Miss M as she’d yet to engage EL4U’s services at this point. as she hadn’t signed the LoE.

Putting things right

EL4U is required to provide Miss M with information that is fair, clear and not misleading before she agreed for them to represent her. I don’t think EL4U acted fairly and reasonably

as I think if Miss M hadn't been led to believe she owed a substantial fee to EL4U I don't think she would have signed the LoE. And by not signing the LoE Miss M wouldn't have engaged EL4U to do any work for her. So I think EL4U should waive the fees they've charged.

My final decision

I uphold this complaint. And ask Employment Law 4 U Ltd to waive all fees and charges they've asked Miss M to pay.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 26 April 2023.

Anne Scarr
Ombudsman