

The complaint

Mr F complains that Quickly Finance Ltd trading as Fast Track Reclaim (FTR) has unfairly asked him to pay their fee for successful mis-sold payment protection insurance (PPI) claims

What happened

In August 2019 before the Financial Conduct Authority's (FCA) deadline for making such complaints Mr F instructed FTR to check whether he'd been mis-sold PPI. One of his lenders I'll call "M" didn't accept the LoA as a valid authorisation for FTR to act for Mr F.

Mr F said his mis-sold PPI claims with "M" were upheld in 2020. But in June 2022 he was asked by FTR to pay their fee for his successful claims. Mr F said he wasn't able to pay the fee in full and offered an amount in settlement, which FTR didn't accept. Mr F also offered to pay £100 a month which again was declined by FTR.

Mr F complained to FTR about the way they'd managed his claim and said it was unacceptable that he was now being asked to pay this amount, and also about the way he was being treated by FTR in pursuit of their fee(s).

FTR said Mr F had instructed them to pursue mis-sold PPI. But it was only after he'd signed another LoA in March 2022 that they found his claims with "M" were successful. As they'd submitted his claim to "M" they said their success fee was justified. They also said they weren't able to accept Mr F's repayment offer of £100 a month as they don't hold a credit licence so any settlement had to be made within 12 months.

Mr F wasn't happy with FTR's response and referred his complaint to us.

Our investigator said Mr F had instructed FTR to act on his behalf, so their fees were justified. But he said FTR's poor management of Mr F's claim had caused him distress and inconvenience, he asked FTR to pay Mr F £75 for this.

Mr F didn't agree and asked for an ombudsman to decide.

A provisional decision was issued in July 2023 that said:

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 currently minded to uphold this complaint , I'll explain why.

I can see from FTR's records that Mr F signed a LoA in August 2019, this LoA would initially be for a free checking service to establish whether Mr F had been mis-sold any PPI.

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 Service"

So once a PPI policy has been identified by the lender the free checking period ended and FTR would look to provide their claims service. So, the agreement would change from a free checking service, to a "No win No fee" agreement. This means FTR would charge 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. FTR's terms and conditions go on to give examples of how the fee(s) would be calculated.

What I need to determine is whether Mr F had agreed to FTR's free checking service or whether he'd a "No Win No Fee" agreement with FTR.

In May 2020, I can see "M" said the LoA dated August 2019 wasn't accepted as a valid authorisation by them, and they asked FTR to provide another. They also said:

"Until we receive the completed LoA, we'll continue to investigate the complaint, corresponding directly with the customer."

This would be considered as an unsuccessful check or negative result as a new LoA was needed.

FTR sent Mr F another LoA to sign, and I can see in June 2020 Mr F signed the LoA but he also manually amended it providing a new address, but he didn't initial any of the changes he'd made. As FTR didn't yet know whether there was any PPI to be found I would still consider this LoA to only be Mr F authorising FTR to provide their free checking service and not their claims service.

Again, this LoA wasn't accepted by "M" as a valid authorisation. I can see FTR asked Mr F to complete another LoA at the end of June 2020 but he didn't sign or return this LoA to FTR.

FTR's records show they took no further action until early 2022 when they again asked Mr F to sign a LoA, which he did. And they submitted this to "M" who told FTR that Mr F's claim had been settled and the amount of compensation he'd been paid. And it was from this that FTR asked Mr F to pay their success fee(s).

But I don't think FTR had submitted anything other than a free check as without a valid LoA the lender "M" wouldn't consider FTR as being authorised to act for Mr F about a mis-sold PPI complaint, which explains why they didn't send FTR their final decision letter in 2020.

And until FTR had identified there was PPI I'm not satisfied they had been authorised by Mr F to provide anything other than their free checking service.

I accept Mr F signed another LoA in March 2022 but the FCA deemed 29 August 2019 as the deadline for mis-sold PPI claims to be made. And any claim received after the 29 August 2019 deadline wouldn't be accepted by the lender(s). And as "M" had already resolved Mr F's PPI claim FTR couldn't provide a claims service for him as there wasn't a claim to make.

So I don't consider FTR's fees are justified and I ask them to waive their fee. I understand this will have caused Mr F considerable distress because of the financial burden FTR's request for payment has caused him but I think the waiving of the fee is sufficient to put things right.

Responses to my provisional decision

FTR said Mr F had signed an LoA in August 2019 instructing them to act for him. They said the LoA was accepted as it was from the submission of this LoA that the lender started to investigate whether Mr F had been mis-sold PPI.

FTR said Mr F had signed a further LoA in June 2020 and March 2022 which showed Mr F was aware FTR was acting on his behalf and he was happy for FTR to do so. They said their success fee is justified as Mr F's claim was instigated by the work done by FTR.

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 haven't been persuaded to change my thinking. I uphold Mr F's complaint, I'll explain why.

It's not in dispute that FTR submitted LoA's signed by Mr F to his lender. But as I outlined in my provisional decision, I need to be satisfied that in signing the LoA's Mr F was using FTR's free checking service or their claims service. If the latter and he'd a successful claim FTR's fee would need to be paid under a "No Win No Fee" agreement.

FTR's terms and conditions say:

"Free PPI Check Period" or 'PPI Check' means the process by which FTR will endeavour to identify whether PPI existed on any account(s) provided to You by the Company. The service undertaken during the Free PPI Check Period is limited to submitting a Pre-Submission or Data Subject Access Request (DSAR) only, on Your behalf, to the Company, upon receipt of Us receiving Your signed LOA. The Free PPI Check Period will immediately end on the date FTR is notified by a Company that PPI has been identified on any account(s). You will never be charged a Fee(s) during the Free PPI Check Period

I consider the LoA's submitted by FTR in August 2019 and June 2020 were "Pre-Submission or Data Subject Access Requests" until FTR was notified by the lender that PPI has been identified. FTR in their response to my provisional decision confirmed Mr F's lender didn't tell them about any PPI policy Mr F did or didn't have with them. So as the lender hadn't notified FTR that PPI had been identified the free checking period hadn't ended. And FTR's terms and conditions say Mr F wouldn't be charged anything during the free PPI check period.

From around 29 June 2019, many businesses voluntarily agreed with the FCA that they would 'auto-convert' successful PPI checks into complaints. So, if the PPI check was accepted it removed the need for a separate complaint to be made. Instead the business would automatically treat the original PPI check as though it had been a complaint – and look at the merits of the case as normal. But the LoA's submitted by FTR weren't accepted by Mr F's lender.

So, although the lender had the LoA(s) they didn't consider FTR had Mr F's authority and were clear that they would only work with him until they received a valid authority from them. As outlined in my provisional decision as the LoA's submitted by FTR weren't accepted by the lender they'd be considered as an unsuccessful check or negative result.

FTR only provided an accepted LoA in March 2022 after Mr F's PPI claim had been resolved between him and the lender. So, FTR couldn't provide a claims service for Mr F as there wasn't a claim to be made.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 4 September 2023.

Anne Scarr
Ombudsman