

## **The complaint**

Miss C complains that Pay Later Financial Services Limited, trading as Fly Now Pay Later, has treated her unfairly in relation to some flights.

## **What happened**

In March 2020 Miss C used finance from Pay Later Financial Services Limited (PLFS) in the form of a Fixed Sum Loan Agreement to pay for flights. The agreement was to cover the cost of £207.03 for the flights which were booked for June 2020. The Pandemic flourished and Miss C wanted to cancel the flights but this didn't happen. In the end the airlines cancelled the flights due to the pandemic. Miss C complained to PLFS but it kept directing her to the airline. During this time Miss C didn't pay towards the monthly repayments she was meant to. She complained to PLFS but it didn't uphold her complaint. So she brought her complaint here.

Our Investigator upheld Miss C's complaint saying PLFS should rework Miss C's account as if the Section 75 claim was successful in July 2020 and if this results in a credit on the account, PLFS should refund this to Miss C with 8% interest. If Miss C owed anything further that is the charge for the agreement, it should make this clear to her and agree a repayment plan. The investigator also decided that no adverse information is recorded on Miss C's credit file and that the agreement is either marked as settled as of July 2020 or removed altogether. Finally it should pay Miss C £300 compensation for the avoidable distress and inconvenience it caused. PLFS didn't agree. So the complaint has been passed to me 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.

PLFS haven't engaged properly on this matter with Miss J and nor with this service about this dispute. Some of the arguments PLFS has made suggest to me their complaint handler doesn't fully comprehend the obligations on PLFS which Section 75 of the Consumer Credit Act 1974 binds it to.

PLFS didn't provide the flights for Miss C, but it has some responsibilities to Miss C due to certain protections afforded to consumers by the Consumer Credit Act 1974 (CCA for short). The loan Miss C entered with PLFS is covered by this Act which provides her with some protection namely under section 75 of the CCA. Section 75 has the effect of allowing Miss C to hold PLFS liable for breaches of contract by the airline, as long as certain requirements within the legislation are met. And having considered the situation here I'm satisfied they are namely Financial Limits and the Debtor-Creditor-Supplier requirement, because this commercial enterprise was to fund the purchase of flights and this was accepted here by the flight providers here prior to this loan and thus this business model meets the pre-existing arrangements requirement to satisfy this legislation. So a claim under S75 can be successful here as the financial limits and required relationship requirements are met.

Here PLFS didn't consider Miss C's position she articulated to it fairly. It mainly pointed her in the direction of the airline rather than deal with matters itself. However once it got to the point that the airline made clear the flights wouldn't fly PLFS should have considered Miss C's arguments as a claim under S75 and understood that the breach of contract had been established (as the flights didn't fly and there is confirmation of this in the evidence supplied) and then acted as the airline was obliged to do under the contract when it cancelled these flights. Hence it should have then refunded her or unwound the agreement whichever led to Miss C being in the position she ought to be under the terms of the contract with the airline (that is full refund). Once it did that it could then use the provisions of S75 to reclaim the money used to do that from the airline as are clearly set out in the legislation which has only been in place for the last fifty years.

In its response to our Investigator's assessment of the matter PLFS said "*we respectfully disagree with the assertion that a breach of contract has occurred on our part.*" This amply illustrates PLFS fundamental lack of understanding of its obligations under this legislation. The breach of contract here is by the airline in not providing the flights. And S75 allows Miss C to hold PLFS to a 'like claim' under this legislation (which is acknowledged in section 11.1 of the fixed sum loan agreement terms and conditions). This means PLFS has to treat Miss C's claim as the airline would do, namely by refunding her itself (and then using the legislation to recoup those costs from the airline if it decides to do so). This argument by PLFS illustrates how it has fundamentally failed Miss C throughout this matter and appears to not understand its obligations here to consider her s75 claim fairly. Accordingly Miss C's complaint is upheld and I'm satisfied that PLFS has caused Miss C significant distress and inconvenience for a protracted period of time by not treating her fairly by not doing what it is legally obliged to do and fairly considering a s75 claim to it by Miss C.

### **Putting things right**

I direct Pay Later Financial Services Limited, trading as Fly Now Pay Later to take the following actions:

- Rework this account as if the Section 75 claim were successful in July 2020. If this results in a credit on the account, PLFS should refund this to Miss C with 8% interest. If Miss C owes anything further, i.e., the charge for the agreement, it should make this clear to her and agree a repayment plan.
- Ensure any further adverse information is not recorded on Miss C's credit file and that the agreement is either marked as settled as of July 2020, or removed altogether; and
- Pay Miss C £300 compensation for the avoidable distress and inconvenience caused.

\*HM Revenue & Customs requires PLFS to take tax off this interest. PLFS must give Miss C a certificate showing how much tax it's taken off if Miss C asks for one.

### **My final decision**

For the reasons set out above, I uphold the complaint about Pay Later Financial Services Limited, trading as Fly Now Pay Later direct it to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 19 November 2024.

Rod Glyn-Thomas  
**Ombudsman**