

The complaint

Mr S complains about Hemmings Howe Associates Limited (“HHA”) and the service they provided when he contacted them to explore making a claim relating to historical vehicle finance.

What happened

Towards the end of 2023, Mr S contacted HHA to enquire about making a claim for historical vehicle finance. He discussed his potential claims with HHA on the phone, and they agreed to process a claim.

After contacting Mr S’ finance providers, HHA passed the information they obtained to a solicitor, who I’ll refer to as “R”, who were the company that would progress the claim itself. But R confirmed Mr S’ finance didn’t meet the eligibility criteria, due to the length of the finance he held. Mr S was unhappy about this, so he raised a complaint with HHA.

Mr S was unhappy with the information and service HHA provided to him directly. This included his belief that HHA should’ve identified the fact his claim wouldn’t be successful, and that the fee information that supplied on a phone call was incorrect. So, he wanted to be compensated for the distress and inconvenience he’d been caused. HHA didn’t respond to Mr S’ complaint within the eight-week time period they are afforded and so, Mr S referred his complaint to us.

Our investigator looked into the complaint and upheld it, recommending HHA pay Mr S £150 compensation. Initially, our investigator’s view was based largely on Mr S’ testimony and information he’d supplied, as HHA had failed to respond to our service’s request for information. But following our investigators first view, HHA responded provided copies of call recordings, explaining they were acting solely in their role as a lead generator. So, they didn’t think it was within their remit to review Mr S’ claims, or the potential success of them.

Our investigator considered HHA’s comments, and the evidence they provided. But they didn’t think this changed their opinion, explaining why they didn’t think HHA had referred Mr S’ claim fairly as our service would expect. So, they maintained their recommendation that HHA pay Mr S £150 compensation. Mr S accepted this recommendation, but HHA didn’t respond. As HHA didn’t respond, our service must assume the recommendation has been rejected and so, Mr S’ complaint has been passed to me for a decision.

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 the complaint for broadly the same reasons as the investigator. I’ve focused my comments on what I think is relevant. If I haven’t commented on any specific point, it’s because I don’t believe it’s affected what I think is the right

outcome.

Before I explain why I've reached this decision, I think it would be useful for me to set what I've been able to consider and crucially, how. I note that throughout our process, HHA have failed to respond fully to our requests for information. So, my decision is based on the information and evidence I do have available, which includes Mr S' testimony, while making adverse inferences to HHA's lack of response and cooperation where necessary.

And I want to make it clear to Mr S that this decision focuses solely on the actions of HHA, in their role as a lead generator. It will not consider the claim decision taken by R, as they are a solicitor and so, do not fall within our service's jurisdiction to investigate.

And while HHA's role was limited by the fact they were acting as a lead generator only, in line with industry rules and regulations, our service still expect the quality of HHA's referral to R, and the advice they gave to Mr S during this process, to be good and of a reasonable standard. And in this situation, I don't think I can say that's the case.

I've listened to the call between Mr S and HHA, that HHA supplied. And within this call, the call handler explains that they would request the finance information from Mr S' finance providers, before assessing these and returning to him with a potential claim value.

So, because of the above, I do think Mr S was set an expectation that HHA, and not R, would let him know if his claims were likely to be successful. Yet they didn't do this. And HHA themselves have stated to our service that they act as a lead generator only and so, don't assess any claims. I think this conflicts directly with the information Mr S was given on this call and so, I'm satisfied he was misinformed and that this means the quality of the referral was poor.

This is furthered by the information HHA then provided to Mr S about the potential fee. Mr S asked the handler, who identified themselves as an employee of HHA at the start of the call, what "they" would charge. I would've expected HHA to make Mr S aware at this point that any potential claim would be referred to R, when discussing the chargeable fee. But they didn't do this. Instead, the handler states most claims are charged at 30% of the successful refund. And while the handler didn't say all claims, I think the language the handler used, and the fact 30% was directly quoted, gave Mr S the impression this would be the likely fee.

Instead, Mr S has stated he was later told by R a fee would be charged at 40%. HHA haven't provided any evidence to show this isn't correct and so, I think it's reasonable for me to assume this is the case. And because of this, I think this is again evidence to show the quality of HHA's referral was poor, and that the service they provided was unreasonable.

So, I'm satisfied HHA acted unfairly when generating, and referring, Mr S' claim and so, I've turned to what I think HHA should do to put things right.

Putting things right

When thinking about what HHA should do to put things right, any award or direction I make is intended to place Mr S back in the position he would've been in, had HHA acted fairly in the first place.

In this situation, I think it's accepted Mr S' potential claims didn't meet the eligibility criteria to be successful. So, I think Mr S would always have been left in a situation where he didn't receive a refund he hoped he may have been entitled to.

But, had HHA acted fairly, I think they would've provided Mr S with clearer information about their role. And considering the information given to Mr S on the call with HHA, where they said they would assess the information they obtained from Mr S finance providers, I think they could've most likely done more to manage Mr S expectations.

And had they done so, I think this would've prevented, or at least mitigated, the frustration Mr S felt when he was told his claims couldn't be pursued, as well as realising any successful claim would've cost him more than he was led to believe. And I think it would've most likely prevented some of the inconvenience Mr S experienced engaging with R's process when this engagement was never going to lead to a successful compensation award.

Our investigator recommended HHA pay Mr S £150 to recognise the above. And I think this recommendation is a fair one, that falls within the guidelines of our service's approach and what I would've directed, had it not already been put forward. So, this is a payment I am directing HHA to make.

I understand HHA may not agree with this. And I want to reassure HHA I've thought carefully above the comments they've provided. But as I set out early on within this decision, I must base my findings on the evidence and information that has been provided. And while I note HHA have provided call recordings, they haven't been able to provide any further information such as agreements Mr S signed, which may have outlined or made clearer exactly what their role was in this claim process. So, without this, I don't think their comments have persuaded me that the recommendation already put forward is unfair.

My final decision

For the reasons outlined above, I uphold Mr S' complaint about Hemmings Howe Associates Limited and I direct them to take the following action:

- Pay Mr S £150 compensation to recognise the distress and inconvenience he's been caused by the quality of their referral, and the information they provided during this process.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 July 2024.

Josh Haskey
Ombudsman