

The complaint

Miss S is unhappy with how Social Money Limited trading as Payl8r ('SML') handled a claim under Section 75 of the Consumer Credit Act 1974 ('S75').

What happened

Around January 2024 Miss S took a point of sale loan with SML to cover the cost of various hair treatments at a provider I'll refer to as "H". The treatments cost a total of £1,170. SML lent Miss S £1,053, which she was due to repay over twelve months.

Unfortunately, Miss S was unhappy with the results of the treatments and complained to H shortly after.

Miss S then complained to SML in February 2024 and asked for a refund under S75. She said, in summary, that H had caused chemical burns to her scalp, damaged her hair, fitted extensions poorly and that her hair looked much worse following the treatment. SML asked Miss S for evidence and she provided various photos and testimony.

In March 2024 SML sent its final response. This said, in summary, that H had offered Miss S a follow up appointment to address and resolve any issues, but Miss S had said this wasn't convenient for her to attend. SML said Miss S' hair had been styled to her satisfaction and in line with her preferences. It said H had explained the dissatisfaction may be due to the choice of colours Miss S had made. SML said it would not uphold the complaint or offer a refund.

Miss S remained unhappy and referred the complaint to our service. Miss S reiterated what she had told SML and said it had cost around £500 to fix her hair. And she provided some further information from what she said was another hair stylist.

Our investigator issued an opinion and did not uphold the complaint. In summary, she said she hadn't seen enough to make her think there had been a breach of contract or misrepresentation by H. And she said even if she had, H's offer of a follow up appointment to put things right was reasonable.

Miss S disagreed. She said that her scalp had been "*permanently damaged*" by H. As Miss S remained unhappy, the case 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.

Having done so, I don't think this complaint should be upheld. I'll explain why.

Miss S complains about a claim under S75 being declined. So, S75 is relevant to this complaint. This explains, under certain circumstances, that the borrower under a credit

agreement has an equal right to claim against the credit provider if there's either a breach of contract or misrepresentation by the supplier of goods or services.

Firstly, I need to consider if Miss S had a valid claim under S75.

In order for there to be a valid claim, there needed to be a debtor-creditor-supplier ('DCS') agreement in place. Here, I can see the loan agreement from SML is in Miss S' name, with H recorded as the 'provider' of services. Miss S has confirmed the treatments were carried out on herself. So, I'm satisfied a valid DCS agreement exists here.

I've then considered the financial limits that apply to a valid S75 claim. Miss S needed to have purchased a single item with a cash price of over £100 but no more than £30,000. I can see from the credit agreement that the cost is listed as £1,170. There isn't a breakdown of the individual items and treatments, but I'm satisfied the treatment as a whole can be taken as the 'single item' here. So, it follows this that I'm satisfied the financial limits have been met for a valid claim.

I'm satisfied Miss S had a valid claim under S75. What I now need to consider is whether there was a breach of contract or misrepresentation that took place.

I've considered both express terms in any contract between Miss S and H – in other words those in writing, and any implied terms.

The Consumer Rights Act 2015 ('CRA') implied a term into the contract between Miss S and H that the services would be carried out with 'reasonable care and skill'. If this wasn't the case, I would consider this to have been a breach of contract. There isn't a definition of what 'reasonable skill and care' means here – so I need to carefully weigh up the evidence and relevant circumstances.

I think it's fair to say the most serious issue here is whether H caused damage to Miss S' scalp as she says, so I've considered this first.

I've seen a photo of what Miss S says is her scalp, which she said was taken shortly after the treatment. While I'm not a medical practitioner, this photo does appear to show redness and damaged, painful looking skin under hair.

SML said it believes this photo might not be genuine and it may have been copied from the internet, from a time prior to Miss S' treatment.

I should point out that I am not a photography expert. However, looking at the photo Miss S provided, it appears identical to a crop of another photo I've seen. This was from a forum post about chemical burns resulting from hairdressing treatment, which was posted online several months prior to Miss S attending H. So, I'm not putting any weight on this piece of evidence.

I've seen several other photos of Miss S' hair from the time and shortly after, and I can't see any similar looking damage.

I've reviewed some testimony Miss S provided, which she says is from a stylist who corrected her hair. This says:

"you have got clear scalp scabs that will take a long time to heal"

"Your hair is damaged and this is clearly due to the stylists colouring on you."

“The hair was placed absolutely awfully and it’s caused scalp discomfort which is clear to see on your scalp as well as hair loss”

“this is a disgusting treatment”

I’ve carefully thought about this. The quotes above are from a screenshot of messages, presumably from a phone. But, the screenshot does not show a date, nor a phone number or other details about who sent it.

I’ve also reviewed the invoice Miss S has sent which she says was from the same stylist. But, there is something of a lack of information on this invoice – for instance it has no contact details or address for the supplier. And the description is only given as *“Hair Styling”* – it doesn’t for instance contain any details of any specific corrective treatment required. So, having thought about this, I’m not putting much weight on this evidence either.

I’ve seen a response directly from H to SML where it states:

“This is all complete false information”

“I absolutely did not burn her scalp”

I’ve also thought about the fact that there is no evidence from any medical professional about any treatment, or any testimony from Miss S about any attendance for medical treatment. This, given Miss S complained about chemical burns and permanent damage to her scalp, is somewhat surprising under the circumstances.

Considering all of this, I haven’t seen enough evidence to persuade me that H showed a lack of skill and care here.

It’s important to note that even if there *was* more persuasive evidence that H had damaged Miss S’ scalp, this still wouldn’t automatically mean it had acted without reasonable skill and care. Deciding this would then likely need expert evidence and testimony, and I would then need to consider whether it would be right for this service to make a final decision, given the complexity of the potential issues and our inability to gather further evidence or cross examine witnesses.

I should also explain that this service can’t make awards for loss of amenity. This means it’s unlikely our service would be able to make any award compensating Miss S for the ongoing problems with her scalp that she describes.

I don’t have a copy of any contract between H and Miss S. But, the services and treatments agreed to are set out on the credit agreement and other information from SML. While Miss S is unhappy with the results of the treatments, it doesn’t seem in dispute that the services Miss S agreed to were carried out.

I’ve then gone on to consider the other issues Miss S raised about the treatments. I appreciate parts of this are very subjective, as some issues are based on appearance. And it’s important to point out I am not an expert in the field of hairdressing. But, from the various photos I’ve been provided with of Miss S following the treatment, I can’t see anything which persuades me the treatment was provided without reasonable skill and care.

Miss S provided other various photos, including of shorter hairs at the top of her head and hair which had apparently come out. But, I’m again not persuaded these show the service was provided without reasonable skill and care.

It follows all of this that I haven't seen enough to suggest there was a breach of contract here. Nor have I seen anything to suggest the treatments were misrepresented to Miss S. It follows that I don't think SML did anything wrong when it declined the claim under S75.

It's worth explaining to Miss S that even if I *did* think there had been a breach of contract here, I've seen evidence that H offered to try to correct things for her at a follow up appointment. The CRA explains when services aren't provided with reasonable skill and care, the consumer has a right to a "*repeat performance*". It explains:

"The right to require repeat performance is a right to require the trader to perform the service again, to the extent necessary to complete its performance in conformity with the contract."

I've seen evidence H was attempting to rebook Miss S in for follow up work once she said she was unhappy. And it told SML:

"I said I was more than happy to have her come back in"

I appreciate Miss S said attending the appointment would've been difficult, but I still think this would've been a fair offer to put things right under the circumstances.

I'd like to reassure Miss S that I've carefully considered all of the other comments and evidence on the case. But, I still think SML fairly declined the claim under S75.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 14 March 2025.

John Bower
Ombudsman