

The complaint

Mrs M complains about Charterhouse Claims Limited (“CCL”) and their decision to chase her for a settlement fee after she received a balance reduction on her loan provided by lender B. Mrs M also complains about the way CCL has chased her for this fee.

Mrs M has been represented by her son, Mr M, during the complaint process. For ease of reference, I will refer to any comments made, or actions taken, by either Mrs M or Mr M as “Mrs M” throughout the decision where appropriate.

What happened

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, Mrs M instructed CCL to pursue an unaffordable lending claim against lender B.

Lender B responded to this claim offering a balance reduction of £3,083.44 as a gesture of goodwill, which Mrs M accepted. So, CCL invoiced Mrs M for their settlement fee, calculated on this balance reduction. Mrs M was unhappy about this, so she raised a complaint through her son, Mr M.

Mrs M’s complaint included, and was not limited to, her belief that CCL’s invoice was unfair, as lender B had reduced her balance as a gesture of goodwill, rather than upholding her unaffordable lending claim. So, she didn’t think CCL’s fee was invoiced fairly, within the terms and conditions she agreed to. Mrs M was also unhappy with the way CCL had contacted her seeking payment, including the number they used to call her and the conduct they used overall. So, Mrs M wanted CCL to waive their fee and halt all future contact.

CCL responded to the complaint and didn’t uphold it. They thought they had acted fairly, and in line with their terms and conditions, when invoicing Mrs M for their fee. But to recognise Mrs M’s financial position, and that the goodwill gesture was a balance reduction, they put forward a payment plan while also signposting Mrs M to money advice organisations. Mrs M remained unhappy with this response and so, she referred her complaint to the Claims Management Ombudsman, a Financial Ombudsman Service.

Our investigator looked into the complaint and didn’t uphold it. They thought CCL were fair to charge their fee, as Mrs M had received a financial benefit from the claim CCL made. And they thought CCL were entitled to request payment of their fee and because of this, they didn’t agree that CCL had acted unfairly when doing so. So, they didn’t think CCL needed to do anything more.

Mrs M didn’t agree, providing several comments explaining why. These included, and are not limited to, her continued belief that a goodwill gesture didn’t signify a successful claim. Mrs M didn’t think CCL had made it clear she may be expected to pay an invoice if she didn’t receive a cash in hand offer from lender B. And she maintained her belief CCL had harassed her when chasing her for payment, referring to the number CCL used to call her specifically.

Our investigator considered the points Mrs M put forward, but their view remained

unchanged. Mrs M continued to disagree and so, the 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 not 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.

First, I want to recognise the impact this complaint has had on Mrs M. I appreciate Mrs M instructed CCL to pursue a claim on her behalf to help improve her immediate financial situation. So, when she discovered she would receive no cash in hand settlement and be expected to pay CCL's invoice, I can understand the shock and worry this would cause, especially when CCL contacted her on more than one occasion to request payment.

But for me to say CCL should do something differently, for example waive their outstanding fee, I'd first need to be satisfied they've done something wrong. So, I'd need to be satisfied CCL acted outside of the terms and conditions Mrs M agreed to when invoicing for their fee. Or, that they completed no work of value on the claim that led to Mrs M's balance reduction. And in this situation, I don't think that's the case and I'll explain why.

I note it's not disputed that Mrs M initially instructed CCL to pursue a claim against lender B on her behalf. I've seen Mrs M signed a letter of authority on 24 January 2024, which explains *"You should only sign this document if you have read and agree to the...Terms and Conditions"*. So, as Mrs M signed this document, I think it's reasonable for me to assume she read and understood these terms and conditions.

I've read through the terms and conditions at length. And these explain that:

"Our Fee is inclusive of VAT and percentage of the total monetary redress offered in a Settlement Proposal; this can be a Cash Award, Balance Reduction or Combination Award".

They then go on to provide working charging examples, which includes where a customer receives a balance reduction with no cash award being received.

In this situation, lender B didn't agree the loan had been unaffordable to Mrs M. But as a gesture of goodwill, they reduced Mrs M's balance to £0, so she had nothing left to pay, to recognise her current financial situation.

So, although lender B didn't agree the loan was unaffordable, Mrs M did receive a financial benefit from the claim, which was submitted to lender B by CCL. And I think it's reasonable for me to assume that without this claim being made, lender B wouldn't have been made aware of Mrs M's financial situation and so, wouldn't have been able to consider this and decide to offer the gesture of goodwill.

Because of this, I'm satisfied that the work CCL completed submitting the claim led to the balance reduction Mrs M received. So, I think CCL have acted fairly, and in line with the terms and conditions, when determining this balance reduction to be a settlement proposal. And so, I think CCL were entitled to charge their fee, which I'm satisfied is charged correctly, in line with the fee information set out. Because of this, I'm unable to say the fee CCL are charging should be waived.

I've then turned to Mrs M's other concerns, which centre around the way CCL has chased her for payment of their fee. And I want to make it clear that our service is an informal alternative to the courts and so, we are unable to make legal determinations on legal policy and case law.

Instead, in line with our services informal approach, it is our role to consider the actions CCL have taken and decide whether they were fair and reasonable. So, this is what I've done.

First, I note Mrs M argues that CCL didn't make her aware of the financial implications of accepting the balance reduction put forward by lender B. But I've seen lender B made this offer directly to Mrs M in an email on 11 April 2024. And, that Mrs M replied to lender B directly accepting this offer on the same day, before CCL had chance to review the offer and discuss with Mrs M.

Had Mrs M wanted to discuss this offer with CCL, I would've expected her to contact CCL directly who she would've been aware were working on her behalf. But she didn't. And I think CCL's terms and conditions, which Mrs M agreed to at the start of the claim journey, made it reasonably clear a fee would still be charged if a balance reduction was accepted. So, I don't agree that CCL acted unfairly here.

I've then thought about Mrs M's assertion that the way CCL chased her for payment amounted to harassment. And again, I want to reiterate our service cannot make legal determinations or state whether laws have been broken. Instead, I've thought about whether I believe CCL chased for payment of their fee in a fair and reasonable way. And I think they have here.

I note Mrs M accepted lender B's offer of a balance reduction on 11 April 2024. And I can see CCL processed this acceptance and issued their invoice the following day. While I recognise the terms and conditions explain Mrs M has 10 working days to pay her fee, I don't think CCL were unfair to contact Mrs M before this time, to discuss how payment would be made considering it was a balance reduction rather than a cash award.

From CCL's system notes, I can see CCL offered Mrs M a payment plan on 15 April. And Mrs M explained on this call that her son would call CCL back. But I can't see this call back took place and so, I think CCL were fair to attempt to contact Mrs M again on 16 and 17 April, considering they were aware a payment plan would likely be needed.

When Mrs M told CCL again on 17 April that her son would contact them, I can see CCL made no further attempts to contact Mrs M until Mr M's complaint was received on 22 April. CCL issued their response to this complaint on 26 April, setting out why they felt a fee was due and again offering a payment plan to Mrs M. They then waited five days before resuming collection activity, which by this time was more than 10 days after lender B made the balance reduction offer.

Considering the above, I don't think I've seen any evidence that suggests CCL's collection activity up to their complaint response was unreasonable, or excessive. And as CCL answered Mr M's complaint on 26 April, with a payment plan again being put forward, I think they were fair to resume collection activity from this point.

From what I can see, after this date CCL were unable to speak to Mrs M directly to arrange a payment plan. And Mr M's email correspondence continued to dispute the fee altogether, which CCL had already responded to and explained why they didn't agree.

So, as I think CCL's fee was due at this point, and that they had reasonably addressed Mrs M's concerns about the validity of this fee, I don't think I can say CCL were unfair to continue

trying to contact Mrs M. And I think it's likely this contact was increased due to their inability to speak to Mrs M directly or receive calls back to the messages they left by answerphone and text.

So, because of the above, while I recognise Mrs M may have been unhappy with the number CCL called from, and the wording of the collection letters she received, I think CCL were entitled to seek payment, or at the very least agreement of a payment plan. And as they were unable to do so, I think they were fair to continue through their collection process which would include setting out exactly what actions they may take, if payment wasn't made or an agreement reached.

So, I'm unable to say CCL have acted unfairly here and because of this, I don't think they need to do anything more on this occasion.

I recognise this is unlikely to be the outcome Mrs M was hoping for. And I want to reassure her I've considered all the points put forward by her representative, even if I haven't commented on them directly due to our services informal approach. Should Mrs M remain unhappy with what she feels is a breach of her data protection, this would need to be raised with the Information Commissioner's Office ("ICO").

And even though I'm not upholding this complaint, I want to remind both parties that CCL have an obligation to treat Mrs M with due consideration, to ensure her financial situation is fairly considered when looking to arrange a suitable repayment plan. I note Mrs M wants our service to set out what we think a fair repayment plan would look like, but this isn't something our service has the jurisdiction to do. Mrs M and CCL must now work together to agree a reasonable and affordable repayment plan, with due consideration being given.

My final decision

For the reasons outlined above, I don't uphold Mrs M's complaint about Charterhouse Claims Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 December 2024.

Josh Haskey
Ombudsman