

The complaint

Mr W complains that Lloyds Bank PLC (Lloyds) has unfairly declined his claim under Section 75 of the Consumer Credit Act 1974 (Section 75 CCA).

What happened

In April 2023, Mr W paid a total of £8,400 to a law firm (who I'll call P) to engage its services. Mr W specifically wanted legal representation at a hearing. £6,000 was paid using a debit card and £2,400 was paid using a Lloyds credit card.

In August 2023, Mr W approached Lloyds to raise a dispute. He claimed the services he had engaged P for had not been received, and he had utilised another firm at an additional cost of £1,800 to perform the services he was requesting.

Lloyds reviewed the payment of £6,000 under the chargeback scheme and later reviewed the payment of £2,400 under Section 75. On review, Lloyds did not accept the claim as it felt it did not have enough evidence to confirm that submitting the case to be heard was guaranteed. It therefore did not agree that there had been a breach of contract and that it was liable for the £2,400 Mr W sought to recover under Section 75.

Unhappy with this, Mr W brought his complaint to our service. Our investigator reviewed the complaint and initially said there was not enough evidence to support a claim for misrepresentation or breach of contract. Her reasons for reaching this outcome were in relation to the two-tier packages P offered, which involved paying an additional fee if the case proceeded to trial, and Mr W had not paid for this. Mr W disagreed with this outcome and our investigator added that she had not seen enough evidence to confirm P had promised to provide the services Mr W is saying he has not received.

As Mr W remained unhappy, he asked for an Ombudsman to consider the complaint. 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.

Before I begin, I would like to start by saying that I have provided a brief summary of events above, and this forms part of my informal remit. I mean no discourtesy by this and can assure both parties I have read and considered all of the information provided before reaching my decision. I have substituted all reference to the specific legal matter under discussion with "legal". Neither party has disputed that we cannot consider the chargeback element of this matter, and Mr W has only complained to us about the Section 75 element of his claim so I will only be discussing Section 75 in this decision.

Section 75 of the CCA allows – in certain circumstances – for a creditor (Lloyds) to be jointly and severally liable for any claim by the debtor (Mr W) of breach of contract or misrepresentation made by a supplier of goods and/or services (P). My decision focuses on

whether Lloyds reviewed the information provided and made a fair decision about whether the claim under Section 75 should succeed or not. I will start by considering what Mr W asked for and what P contracted to do for Mr W.

Prior to engaging P's services, Mr W sent it an email in which he said:

"In regards to the package what we want is representation at the hearing we have asked for having filed an [legal] application. Is that something you could do or is it packages only?"

It appears that following this, a telephone conversation was had between Mr W and P. Following this discussion, Mr W emailed P again and he said:

"I have made an application to the magistrates re an [legal] process as I needed to do so at the earliest. We are not sure if the £5k + vat package covers this.

Then there is a £2k on top to review evidence so does that mean your package is £7k+v at to review the crown's evidence of 2 short witness statements and tell us what you think the prospects are regarding the [legal] application? We are also, not sure that this is something you do?"

And

"To be honest with you we have been quoted between £2k to £14k for what we think we want, If your package does not relate to what we are seeking then I would rather you tell me up front as I have already been told by one solicitor that they won't take me on as I have already pleaded not guilty and another who has a package of £2k but that does not include anything apart from turning up to defend me. Thus, we really want to ensure that we get what we need or are looking for. Not what appears to be this is what we do and some of it we don't do and that includes what you're asking as it's not in the package."

It is clear therefore, that Mr W was in search of a law firm who would agree to represent him at an upcoming hearing, and he was not prepared to engage the services of P if it did not confirm it was willing to do so. He was also, as it appears from the text above, seeking more than a firm who would only turn up to trial and was attempting to understand what exactly the package covered prior to engaging P's services. I also note that Mr W did seem to be interested in hearing from P about what it thought his prospects of success were.

P responded to this email and provided further information on the two-tier package system to help clarify things for Mr W. Within that, P said:

"The first part of the instruction includes all work required (including service of a defence statement and /or appearance at an [legal] argument) but NOT including attendance at trial (green). If, and only if, your case does proceed to trial would fees for part 2 be required (these would need to be secured at least one week before trial).

If you would like a full review of the evidence first there is a fixed fee of £2,000 plus VAT (£2,400 total) (purple). Therefore, if you decide not to go on and instruct in relation to a full package, those are the total fees to pay. If you do go on to instruct then the conference fee will be incorporated into whichever package you choose, i.e. it is NOT on top of the package fees."

Mr W took P's confirmation that *the first part of the instruction includes all work required (including an appearance at an [legal] argument)* as assent that P would represent him at the hearing and argues that this forms the legally binding agreement which has been breached.

Having looked at the wording used by P, I don't agree it confirmed it would definitely represent Mr W at the hearing in question, it was merely explaining that its package included any hearings in relation to the legal matter up until the trial. However, and importantly, this service cannot be looked at in isolation and we also need to consider what other things P was offering as part of this package.

I find that prior to Mr W having made payment, P was attempting to ensure it was making its charging structure clear to Mr W. It provided further information about what was included in the first part of the instruction as follows:

"The objective in Part 1 is to challenge the decision to charge and where appropriate to make representations, or adduce evidence that undermines the case against you, to seek to terminate the proceedings by way of discontinuance.

The post-charge package (part 1) will include the following preparation, advice and representation throughout the proceedings, from the non-exhaustive list below:

- *Taking full instructions;*
- *Advice in relation to the relevant legislation; rules and guidelines as they relate to the allegation;..."*

So even if Mr W had assumed that its comment about an appearance at an [legal] argument meant it was promising to represent him at the hearing, P was also making clear that part of its services included testing and challenging the decision to charge and supporting evidence. In so doing, P found that there was no basis in law for an [legal] argument and felt it would be in breach of its professional duties as per Paragraph 2.4 of the Solicitors Regulation Authority (SRA) Code of Conduct for solicitors if it were to present this argument to the court. I have reviewed P's terms of business (a copy of which were sent to Mr W) and the terms make clear that P is authorised and regulated by the SRA, it provides a link to the professional rules which apply to it and confirms there are some limits to what P can do to help clients achieve their goals. P offered to consider any further evidence Mr W wished to provide to see if this strengthened his prospects but essentially was unwilling to proceed with the information it had for the reasons above. It also employed counsel to verify this opinion before providing Mr W with its legal advice.

Although I understand why Mr W is unhappy with how things progressed, I don't find that P breached its contract with him or misrepresented its services in any way. When Mr W contracted for a package, he agreed to the terms of business which form part of his contract with P. Those terms include a line in which the client (Mr W) agrees to not ask P to do anything which would breach its legal, professional or regulatory duties. P fulfilled some of its obligations under the contract and reached a point where it could no longer proceed with the evidence available due its professional opinion and its duties to the court. Although for its fee, P agrees to representations at pre-trial hearings, it has no obligation to continue to pursue cases that would cause it to be in breach of its compliance to the regulatory framework under which it operates, and it makes this clear up front.

Mr W had been told at the outset he could pay for an initial review of the evidence at a cost of £2,400. It may be that this would have been sufficient for P to review the documentation and let him know it was not willing to proceed based on what it had. However, despite having received this information, Mr W decided to proceed with the full package cost. I hope Mr W can see that due to the specifics of the reason P declined to proceed further, it could only come to that conclusion after a review of the evidence and having deployed some of the services for which it has rightfully charged rather than before he contracted with it.

Bringing this back to Lloyds, it declined the claim on the basis that it did not have enough

evidence to confirm that submitting the case to be heard was guaranteed. I find this to be a reasonable outcome, having found no basis for a successful claim for breach of contract or misrepresentation under Section 75. I therefore find that Lloyds has not declined the claim unreasonably in the circumstances of this complaint and I do not require it to do anything further.

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 Mr W to accept or reject my decision before 3 June 2025.

Vanisha Patel
Ombudsman