DRN-5492451

The complaint

Mrs B has complained about the way Healthcare Finance Limited ("HFL") dealt with a claim for money back in relation to dental treatment which she paid for with credit it provided.

What happened

In August 2023 Mrs B entered into a two-year fixed sum loan agreement with HFL to fund the provision of dental aligners from a third-party supplier that I'll call "S". The cash price was around £1,750 and Mrs B was due to pay back the agreement with monthly payments of around £75.

S went out of business in December 2023. At that time Mrs B told us she had used 11 of the 15 aligners provided by S. Mrs B contacted HFL to ask for a refund. HFL considered the claim as a potential breach of contract under Section 75 of the Consumer Credit Act 1974 ("s.75"). HFL acknowledged S provided a 'lifetime' guarantee. But HFL found that Mrs B had not qualified for the guarantee as she had not registered her aligners. So, HFL offered no redress to Mrs B.

Mrs B was not satisfied and so she brought her complaint to this service. Our investigator looked into things and thought HFL's handling of the s.75 claim was fair. Mrs B didn't agree. She said she was left without support and said there'd been a breach of contract.

As things weren't resolved the complaint was passed to me to decide.

I issued my provisional decision on 2 April 2025, a section of which is included below, and forms part of, this decision. In my provisional decision, I set out the reasons why it was my intention to uphold Mrs B's complaint. I set out an extract below:

*"**What I've provisionally 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. I want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mrs B and HFL that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

What I need to consider is whether HFL – as a provider of financial services – has acted fairly and reasonably in the way it handled Mrs B's request for getting her money back. But it's important to note HFL isn't the supplier.

S.75 is a statutory protection that enables Mrs B to make a 'like claim' against HFL for breach of contract or misrepresentation by a supplier paid using a fixed sum loan in respect of an agreement it had with her for the provision of goods or services. But there are certain conditions that need to be met for s.75 to apply. From what I've seen, those

conditions have been met. I think the necessary relationships exist under a debtor-creditor-supplier agreement. And the cost of the treatment was within the relevant financial limits for a claim to be considered under s.75.

I must consider if there is persuasive evidence of a breach of contract or misrepresentation by S that means HFL should have offered redress when handling Mrs B's claim.

Mrs B entered into the agreement in August 2023, and it was expected to last a few months. S went out of business when she was part-way through her treatment. I've focussed on Mrs B's breach of contract claim. Even if S couldn't provide all the services it promised because it went out of business, it's not clear this would be a misrepresentation, because I don't think it would have been aware it would go out of business when it sold Mrs B the treatment.

Mrs B made her claim under s.75. In that email Mrs B raised the point, which I think is a fair one, that she'd found out S had gone out of business, and she was expecting to not only have received her set of aligners, but the ongoing dental support and lifetime guarantee – as set out in its online literature.

S's FAQs said during treatment its dental experts would be with the customer every step of the way, using virtual check ins to track progress. It said its care team would be available 24/7. Because of a fundamental breach of contract, S wasn't able to offer the ongoing support or the guarantee for Mrs B.

I'm aware some other customers decided to carry on with their treatment after S went out of business. That was possible because it was largely a self-directed treatment. But I'm also aware some customers decided not to continue treatment when they found out S was no longer trading. Given a part of the contract to be expected was the ongoing support it's not unreasonable that certain customers may have had valid concerns with continuing treatment without the dental supervision and support they'd expected.

Mrs B didn't complete her treatment. And I think the reason she didn't complete her treatment was as a direct result of a fundamental breach of contract. I've thought about how things should be put right. And I'm intending to decide that HFL should end the agreement and provide Mrs B with a refund of what she's paid.

I have read much from HFL about the lifetime guarantee and the consumer's responsibilities for achieving that. But I have noted that the FAQ's explain that if some parts of the process had been missed at outset, then they could be rectified at a later date. It was possible to requalify for the lifetime guarantee. So, not registering the aligners at outset was not a barrier to qualification for the lifetime guarantee at a later date. So, it seems arbitrary for HFL to have raised this as the test of whether someone is entitled to a full refund when deciding the section 75 claim.

And in any event, whilst HFL has had much to say about Mrs B not having registered her aligners and not therefore being eligible for the guarantee, I have found that the breach of contract was caused by S going out of business and therefore not fulfilling its part of the offering that Mrs B entered with them. I have focused on this as the root cause of Mrs B's claim and it seems reasonable to do so.

Mrs B told us that she had issues with some of the aligners before S went out of business. We'll never know for sure if Mrs B was using the aligners properly. Just as we'll never know if Mrs B would have registered the aligners and requalified for the guarantee or

raised the issues she has told us about with S. But we do know for certain that S went out of business. And we know for certain that Mrs B did not finish her course of treatment.

HFL may argue Mrs B gained some benefit from the aligners she used. But if the patient stopped wearing aligners, it's quite likely some or all progress made would be lost and the teeth may regress back fully, or near to the position they were in before. This is why retainers are recommended for when the customer reaches the point they want to 'retain' i.e., at the end of the treatment.

Moreover, even if Mrs B did gain some benefit from the aligners she used, not that I've seen sufficient evidence to suggest there was, in all likelihood, it's unlikely if she went to another dental treatment provider, she'd only need to pay the percentage cost of treatment she didn't complete. She'd likely have to pay the full cost again. So, the cost to cure the breach is likely the full cost of comparable treatment elsewhere, which is another reason I think a full refund is fair. It's a quick and informal way to resolve things, which is what I'm required to establish.

Overall, Mrs B hasn't said she's obtained a benefit from the service she paid for. I think to cure the breach she'd likely need to start again, or at least pay the full cost for another set of treatment. So, I'm intending to say the fairest thing to do is to end the agreement and refund her everything paid towards it. HFL would only be required to do that if Mrs B sends it the unopened aligners (if HFL wishes).

My provisional decision

For the reasons given above, my provisional decision is that I'm intending to uphold this complaint and direct Healthcare Finance Limited to:

- *End the agreement (if it hasn't already) with nothing further to pay.*
- *Refund Mrs B everything paid under the agreement.*
- *Interest should be added to the above amounts at a rate of 8% a year simple from the date each payment was made to the date of settlement.*
- *Remove any adverse information about the agreement from Mrs B's credit file.*

If HFL considers it is required to deduct tax from my interest award it should provide Mrs B a certificate of tax deduction so she may claim a refund from HMRC, if appropriate."

I asked the parties to the complaint to let me have any further representations that they wished me to consider by 16 April 2025. Both Mrs B and HFL have accepted the provisional findings. So, I'm proceeding to my final 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.

Given that there's no new information for me to consider following my provisional decision, and because both parties have accepted my provisional findings, I have no reason to depart from those findings. And as I've already set out my full reasons for upholding Mrs B's complaint, I have nothing further to add.

Putting things right

I require Healthcare Finance Limited to calculate and pay the fair compensation as detailed in the provisional decision and repeated above.

My final decision

For the reasons set out, I'm upholding Mrs B's complaint about Healthcare Finance Limited. I require Healthcare Finance Limited to calculate and pay the fair compensation as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 15 May 2025.

Douglas Sayers
Ombudsman