

The complaint

Miss S complains about Allegiant Finance Services Ltd (“AFSL”) and the success fees they have invoiced her, relating her unaffordable lending claim.

What happened

The claim and complaint circumstances are well known to both parties. So, I won’t be listing them chronologically in detail. But to summarise, Miss C instructed AFSL to pursue an unaffordable lending claim on her behalf against lender A in December 2020.

AFSL submitted this claim to lender A. But in 2022, a scheme of arrangement (“SOA”) was put in place to provide payment to consumers such as Miss S. And ultimately, Miss S received two refunds through this SOA around 2024.

AFSL were made aware of these refunds. And they invoiced Miss S for their respective success fees. But Miss S was unhappy about this, so she raised a complaint about it. In summary, she set out why she felt the success fees were unfair, as she had enrolled in lender A’s SOA and dealt with that process directly. And she set out why she thought AFSL’s collection process was unreasonable and intimidating. So, she wanted AFSL to waive their outstanding success fees and be compensated for the emotional and practical impact she’d felt.

AFSL responded to the complaint and didn’t uphold it. To summarise, they set out why they felt they had acted fairly, and in line with the terms of the agreement Miss S entered into, when invoicing for their fees. And as Miss S hadn’t paid the invoices, they felt there were fair to continue with collection activity. So, they didn’t offer to do anything more. Miss S remained unhappy with this response, 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. Both parties have had sight of this outcome, so I won’t be recounting it in detail. But to summarise, our investigator didn’t dispute Miss S’ testimony that she had engaged with the SOA directly but even so, they set out why they thought AFSL were fair and reasonable when invoicing for their fees. So, they didn’t recommend AFSL do anything more.

Miss S didn’t agree, providing several comments setting out why. These included, and are not limited to, her continued belief that AFSL were only instructed to pursue her claim before the SOA was put in place. And after this, she was required to engage with this process. So, she didn’t agree that AFSL had completed work that had led to the refunds she received, and she felt the invoices, and subsequent collection activity, were unfair and unreasonable.

As Miss S didn’t agree, 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, in line with our services informal approach as an alternative to the courts. So, 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. But I want to reassure both parties I've considered everything that has been provided.

First, I want to recognise the impact this complaint has had on Miss S. I recognise she feels she engaged directly with the SOA and lender A. So, I can understand why Miss S feels as though she completed the work that led directly to the refunds she received and because of this, why she would dispute the fairness of the success fees AFSL are invoicing her for.

But for me to say AFSL should waive these fees, or take any other action, I first need to be satisfied AFSL did something wrong. So, I need to be satisfied AFSL failed to act within the terms of engagement Miss S entered into when issuing their invoices. Or, that it was unfair for them to rely on these terms. For example, if I was satisfied they completed no work of value on the successful claims. In this situation, I've not been persuaded this is the case and I'll explain why.

I note it's not disputed by either party that Miss S did instruct AFSL to pursue her claim against lender A on her behalf. And, that she agreed to be bound by AFSL's terms of engagement when doing so.

I've read through these terms of engagement. And I'm satisfied they make it reasonably clear the services AFSL will provide to Miss S, which includes submitting the claim to lender A and ensuring Miss S is kept updated through the claim journey. Having reviewed the evidence available to me, I'm satisfied AFSL did this, even when they were awaiting further information about the SOA, and how it would work.

These terms go onto explain that by entering into the agreement, Miss S agreed to pay AFSL *"the success fee without undue delay upon receipt of funds paid to you by {lender A}"*. And I'm satisfied the refunds Miss A received resulted from the claim AFSL originally submitted, as lender A themselves notified AFSL of the payments. Because of the above, I'm satisfied AFSL acted within the terms of engagement Miss S entered into when invoicing her for their success fees.

But as I've set out above, I've also considered whether AFSL acted fairly when relying on the terms of engagement. And as a core part of this consideration, I've considered whether the work AFSL completed was of value to the successful claim, which Miss S has made clear she doesn't feel is the case, as she feels she engaged with the SOA and so, lender A, directly.

But I must be clear here that, while I recognise Miss S' own view that the SOA was put in place by the courts which is correct, this action was taken by the industry regulator to aide customers such as Miss S in receiving compensation, due to lender A's trading status. This decision wasn't something AFSL was able to control, or influence. And our service doesn't feel it fair that any work AFSL had completed up to that point be deemed irrelevant, as they were unable to foresee the situation that ultimately arose.

In this situation, I'm satisfied AFSL submitted the original claim to lender A. And, that this original submission led to Miss S' claim being included in the scheme of arrangement. I note Miss S may disagree with this, but I'm satisfied AFSL emailed Miss S on 13 August 2022 to explain her claim had been automatically registered. It appears this email wasn't opened by Miss S, but this wasn't something AFSL were able to control. Ultimately, all they could do

was provide an update, which is what they did.

So, while it may be that Miss S chose to engage with the SOA herself, I'm not satisfied this was something she needed to do. And even if there were occasions where she was contacted through the SOA directly for information, I'm satisfied Miss S ought to have been reasonably aware that AFSL were continuing to act as her representative and that she could have asked them to complete any work on her behalf.

I say this for two reasons. First, the terms of engagement make it reasonably clear that Miss S agreed not to have direct contact with lender A. And considering the SOA was put in place to aide lender A in handling customer claims, I'm satisfied this extended to any direct contact with the SOA.

Further to this, I also note that Miss S called AFSL directly in September 2023 to seek an update on her claim. And at no point during this call, or in any other evidence I've seen, have I been satisfied that Miss S expressed that she was working on the claim directly, or her unhappiness about this.

So, I haven't been satisfied that AFSL failed to progress the claim, or complete work I would have expected them to, that they were aware of. Instead, I'm satisfied that the refunds Miss S received resulted directly from AFSL's submission made in 2020, considering lender A made AFSL aware of the refunds paid to Miss S in 2024. So, I'm satisfied lender A saw AFSL as Miss S' representative and the only way this could have been possible is as a result of them receiving the claim initially from AFSL.

Because of the above, I'm satisfied that AFSL did complete work of value on the claim. And, that they were fair to rely on the terms of engagement when proceeding to invoice Miss S for their fees.

I note Miss S feels AFSL's pursuit of their fees has been unreasonable, and aggressive. But businesses such as AFSL are entitled to continue with collection activity when an outstanding fee is due, which I'm satisfied was the case here. And as part of this, we would expect them to make it reasonably clear to the actions they may take, should payment not be made.

The terms of engagement also made it clear that AFSL "*reserve the right to recover the cost of solicitor fees, tracing fees, court fees and/or enforcement agent fees where it necessary to enforce our right to payment of the success fee*". So, as payment hadn't been made, I'm satisfied AFSL were fair to set out what consequences they may take, which were actions Miss S agreed to when instructing them initially.

So, because of the above, I'm satisfied AFSL have acted fairly, and in line with the terms of engagement, when invoicing Miss S for their success fees and so, I'm not directing them to do anything more on this occasion.

I note Miss S is unlikely to agree with this decision. And again, I want to reassure her I've thought carefully about all the points she's raised. I note it's been some time since she received her refunds from lender A, and it may be that she no longer has access to these funds. I note in AFSL's invoice and chasing correspondence, they laid out the opportunity of Miss S agreeing to a repayment plan in this sort of scenario.

Our service expected businesses such as AFSL to act fairly and reasonably towards customers in similar situations and so, I would expect them to engage with Miss S to fairly consider her financial situation and agree a means of payment that reasonably takes these into account. But what this actually looks like will be for Miss S and AFSL to agree between

themselves, as it's not something our service can direct.

My final decision

For the reasons outlined above, I don't uphold Miss S' complaint about Allegiant Finance Services Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 24 February 2026.

Josh Haskey
Ombudsman