

## The complaint

Ms M 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 July 2023, Ms M entered into a 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 just over £1,600 and Ms M was due to pay back the agreement with monthly payments of around £70 and the term of the loan was just over 2 years.

S went out of business in December 2023, and in October 2024, Ms M contacted HFL to make a claim, requesting a refund. She said she discovered S had become insolvent in December 2023 when she contacted it to complete a check in. She says she continued payments under the loan agreement due to concerns over her credit file. But she was unhappy that S had stopped trading mid-way through her treatment plan so she couldn’t make use of dentists supported check-ins, the lifetime smile guarantee with the touch up aligners the guarantee offered which means she didn’t get the full services she paid for.

HFL considered the claim as a potential breach of contract under Section 75 of the Consumer Credit Act 1974 (“s.75”). HFL said its records show, Ms M had completed her treatment plan, and she didn’t qualify for the lifetime smile guarantee (LSG) as she hadn’t bought the retainer or completed the required check-ins. So, it didn’t feel there had been a breach of contract or misrepresentation that it was liable to remedy.

Ms M decided to refer her complaint to the Financial Ombudsman. She re-iterated that she hadn’t received the goods and services offered under the contract which included dentist supported check-ins and the lifetime smile guarantee.

Our investigator looked into things and didn’t think her complaint should be upheld. She said it looked like Ms M had completed her treatment plan and hadn’t qualified for the lifetime guarantee. That the plan didn’t provide any guarantees regarding how Ms M’s teeth would look and there wasn’t any evidence that S hadn’t exercised reasonable care and skill during the course of her treatment plan. So, there wasn’t a breach of contract or misrepresentation by S, that HFL was now obligated to remedy.

Ms M disagreed. She explained the following:

- She said that she received the aligners in late July 2023 (but she believes she only received half).
- That her plan was a nighttime plan that she started around September 2023 – she recalls uploading photos to get the treatment plan started and her treatment plan was to last 7 months.
- That she was only required to complete check-ins every 90 days and after September 2023, her next check-in was due in November/December 2023, but when she contacted S in December 2023, it had stopped trading.
- She said at this time she had tried to continue with the plan alone but as the products

were bending and breaking, she decided she shouldn't have to pay for services she hadn't received and sought to contact her finance provider.

- She said that much of the contact she had was through an online application that was no longer available so she's unable to provide evidence that she completed the check-ins and was still mid-way through her plan through no fault of her own.

Based on the new information, our investigator felt the complaint should be partially upheld. She still felt that there wasn't sufficient evidence that the aligners were faulty as asserted by Ms M or that S hadn't exercised reasonable care and skill during the course of her treatment plan while it was trading. But she explained that Ms M may have been able to get back on track for the LSG by completing a check-in and buying a retainer had S not stopped trading. So, she felt that HFL ought to offer some compensation for the loss of the guarantee. She said HFL had offered £220 in other cases to its consumers for the loss of the LSG and felt it should do the same in this case.

HFL disagreed reiterating that the records it received from S, showed her treatment plan was complete, that she hadn't completed check-ins and she hadn't bought retainers. So, it didn't feel that it should have to compensate Ms M for the loss of the LSG that she hadn't qualified for. Ms M made no further comments.

As things weren't resolved the complaint was passed to me to decide. On the second of September 2025, I wrote to both parties explaining why I was minded to partially uphold the complaint. HFL responded agreeing with my findings and offering to pay £220 to settle the complaint. Ms M did not reply.

### **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.

In my provisional decision I explained the following:

*Firstly, I'd like to reassure Ms M, and HFL that I have considered all their concerns carefully, but I will only be dealing with the most salient parts of this complaint in this decision as I'm required to decide matters quickly and with minimum formality.*

*I would add that I'm sorry to hear that Ms M is unhappy with her treatment plan and the impact it had on her. It may be helpful to explain that I need to consider whether HFL – as a provider of financial services – has acted fairly and reasonably in the way it handled Ms M's claim. But it's important to note HFL isn't the supplier. S.75 is a statutory protection that enables Ms M 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.*

*There are certain conditions that need to be met for s.75 to apply. From what I've seen, those conditions have been met and HFL has also agreed that S.75 applies.*

*I've considered if there is persuasive evidence of a breach of contract or misrepresentation by S that means HFL should have offered a remedy when handling Ms M's claim. But I want to explain from the outset that I can only consider Ms M's complaint on that narrow basis – that is, whether it was fair and reasonable for HFL to respond to her claim in the way that it did.*

### **Misrepresentation**

*I've focussed mainly on Ms M'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 amount to a misrepresentation because I don't think it would have been aware it would go out of business when it sold Ms M the treatment. So, I don't think a misrepresentation claim exists here.*

#### *Breach of contract – Implied terms*

*I understand Ms M says the aligners were bending and breaking leading to her looking at her options which is when she contacted HFL to ask for a refund. But I'm mindful that Ms M has not provided supporting evidence such as an independent, expert opinion that sets out the treatment she paid for has not been done with reasonable care and skill or that the aligners aren't of satisfactory quality as implied by the Consumer Rights Act 2015 ('CRA'). I've seen no evidence this issue was raised with S before it stopped trading despite Ms M having the aligners since July 2023.*

*I'm not a dental expert, and neither is HFL. Without sufficient supporting evidence, I don't think HFL was unfair to not uphold the claim on the basis of a breach of an implied term of the contract because I've not seen enough to determine the service S offered wasn't carried out with reasonable skill and care or that the goods provided were not of satisfactory quality.*

#### *Breach of contract – Express terms*

*I also need to consider what I think Ms M's contract with S agreed to provide in terms of treatment so I can determine whether there has been a breach of an express term of it. I don't have a contract signed by Ms M, as I understand they were kept in an online application that's no longer available. So, there's a lack of evidence.*

*But it's not in dispute Ms M was due to receive a set of aligners when she entered into the contract in July 2023 and that she received them, and I think she likely used at least some of them. I think the core contract was for those sets of aligners that she was due to use for a few months. Based on what I know about these plans, the day-time plans lasted between 4-6 months (as per S's website), and nighttime plans did sometimes last a bit longer. Ms M says her plan was a nighttime plan that was due to last for seven months, and I don't think that's out of line with the types of plans that was available at the time. But that means by the time S stopped trading, Ms M should have been at least nearing the end of her plan.*

*I appreciate Ms M said she didn't start the plan until September 2023, but she hasn't been able to evidence it through no fault of her own. She says she doesn't have the information or evidence of this due to the online application used by S no longer being available. However, I'm not sure why she would receive the aligners in late July 2023 and not start the plan until several months later. And I have to bear in mind that S's records marked her treatment plan as "complete" which would be expected based on when she received her aligners and the usual length of these plans. I would add that she didn't try to contact HFL until October 2024, which isn't indicative of someone who'd only just started the plan, hadn't had the benefit of the core treatment plan and required dentist support which would be expected in the early days of a treatment plan. I would also expect her to have some unused and unopened aligners if she'd not completed the plan, which could be returned for a pro-rata refund, and I've seen no evidence of this.*

*I believe Ms M has provided her best recollection of events, but I appreciate it's difficult for her to provide a detailed breakdown of events or any evidence given that she no longer has access to the online application that recorded this information. But, I'm afraid, the onus is on her to provide evidence that she hadn't had the benefit of the core plan, and therefore S was in breach of contract by not delivering what she was entitled to under the contract.*

*Based on what I've seen, I think the core contract was for Ms M to receive a set of aligners to be used for a few months with check-in with dentist support. But I don't think I've seen enough to conclude that Ms M didn't receive all the aligners due under the contract or that she hadn't received dentist support from July 2023 to December 2023. As the plans were generally between four to six months, it looks like she had dentist support for the average duration of plans. Additionally, her plan was marked as complete on S's records. Ms M admittedly hasn't asserted she had any problems with the aligners during this time and didn't need any support to get them to fit. And the nature of these sorts of plans were that they were largely self-directed unless consumers needed help. So, Ms M was able to complete the plan herself if she wanted to and was able to. I would re-iterate that if she'd not completed the plan, then she would have had unused and unopened aligners which could be returned for a pro rata refund, and Ms M hasn't ever asserted she had these to return.*

*So, to me it looks like the core contract was generally fulfilled, and I don't think I've seen enough to persuade me that she hasn't broadly benefitted from the core contract – like our investigator concluded. Based on what we know of how long these plans usually lasted, I think Ms M had either just completed her plan (like S's records show) or ought to have been nearing the end of her treatment plan. So, I'm not satisfied that there's enough evidence that there has been a breach of the core terms of the contract which will result in Ms M being entitled to either a full/partial refund of what she'd paid. While I'm sympathetic Ms M is unhappy, I don't think HFL had sufficient evidence to show S breached the express terms of the core contract, so I don't think it was unfair for it to not uphold her complaint on the basis that there has been a breach of contract of an express term of it.*

*However, I do think that she's lost out on the use of the lifetime smile guarantee and the potential for the touch up aligners which I will go on to explain below.*

#### *Lifetime smile guarantee*

*Ms M signed her credit agreement in July 2023, and S didn't stop trading until December 2023. While HFL's records show that her plan was complete, and she didn't complete the required check-in, or buy the retainers I'm not satisfied that this is all that HFL ought to have considered.*

*Ms M says she recalls contacting S around September 2023 to upload pictures onto the app – she says she believes this was when she started the plan. And she was due a check-in in November/December 2023 – but she hadn't received any alerts or reminders, so she contacted S in December 2023, to find out it had stopped trading.*

*The timeline of her testimony supports the conclusions that she had one check-in sometime around September 2023 and was due another sometime in November/December 2023. And HFL's records show she hadn't completed the required check-in and that may be true as Ms M herself accepts a check-in might have been due in November/December 2023. If it was due in November 2023, understandably it would be marked as not complete. But Ms M says she wasn't sent any alerts or reminders to do this – so she proactively contacted S in December 2023.*

*Based on the available evidence, it seems likely that Ms M received the aligners in July 2023, and if she started the plan straightaway, she would most likely only have just completed her treatment plan in December 2023 – which is in line with what S's records show. I appreciate Ms M says there was a delay in starting the plan, so she was still part way through her plan. While she hasn't been able to evidence this, either way, I don't think it affects the outcome in relation to the loss of the LSG.*

On S's website from the time, the frequently asked questions ("FAQ") page has a section for further treatment under the guarantee. This suggests customers can request further aligner 'touch ups' after the core treatment at no cost on an ongoing once a year basis.

What the guarantee offered was the possibility of having further aligners provided that during treatment Ms M registered her aligners; wore them as prescribed; completed check-ins; stayed up to date on payments. And that, after treatment, Ms M bought retainers every 6 months and wore them as prescribed. A dentist also had to approve the treatment. My understanding is that a dentist would only do so if they assessed that further progress to straighten the teeth would be possible.

HFL didn't think Ms M had met the conditions for the guarantee when she contacted it because she'd not completed virtual check-ins or ordered retainers. We've seen other cases where S has told HFL the customer did meet the conditions so I can't completely disregard what it's told us.

But even putting that to one side, it looks like Ms M met all the other conditions for the guarantee. And I note S's website from around the time had a section titled:

"I missed a check-in (or forgot to register my aligners or order retainers), and I'm not sure my [guarantee] is still in effect. Is there anything I can do to become eligible again?"

This says: If you are currently in treatment, you will become eligible again as long as you:

1. Check in your aligners (check your email or the app to do this)
2. Complete your future Smile Check-ins (via email or our app)
3. Are current on your payments
4. Purchase retainers after treatment, replace them every 6 months, and wear them as prescribed

If you just finished treatment, you can become eligible again as long as you:

1. Are current on your repayments
2. Replace retainers every 6 months and wear them as prescribed

If you're unsure whether you're eligible, contact us to find out.

Ms M has consistently explained she only discovered S had stopped trading in December 2023 when she tried to contact it for a check-in that she thought may have been due (or overdue if it had been due in November 2023). I have no reason to doubt what she's consistently said. And I haven't seen anything to suggest that when Ms M likely contacted S in December 2023, she wasn't up to date on payments. If Ms M was classed as within treatment like she asserts, and S had still been trading, the steps above indicate she may have been able to requalify for the guarantee. I think based on the available evidence and what we know of the usual length of these plans, Ms M at most had only just completed her plan. So, if she was classed as just finishing treatment, like HFL asserts, she may have been able to requalify as well.

While it's not definitive, I think there's a chance she would have been able to requalify for the guarantee had S not gone out of business in December 2023. Bearing in mind I need to resolve the complaint quickly and informally by deciding what I think is fair and reasonable, I think HFL should have treated Ms M as if she'd met the conditions for the guarantee.

Ms M thinks she should be refunded in full – she's unhappy that she's been left to complete her treatment plan without dentist support, and she's not happy with the quality of the

*aligners (as she's said they were bending and breaking). She's not explicitly mentioned that she's unhappy with the results achieved, but it doesn't look like she's overall satisfied with the plan. However, as I've explained above, I don't think there's sufficient evidence of a breach of contract in terms of the core treatment plan as I've seen no evidence that the aligners weren't of satisfactory quality or that the service wasn't provided exercising reasonable care and skill.*

*There is a potential breach identifiable because Ms M can no longer use the guarantee. However, given the stage of treatment she was at, the guarantee would never have given her the option of a refund of the core treatment costs. From what I've seen, a full refund was only available for the first 30 days after Ms M began the treatment in 2023, and only if Ms M had not opened or used the aligners. So, I don't think it would be fair or reasonable for me to tell HFL that it should now provide Ms M with a full refund or to end the agreement to recompense her for the potential breach that has happened. I don't think it was unreasonable for HFL to not offer to refund the value for what was provided under the core contract.*

*There are many ways in which the guarantee could have ceased to be of use to Ms M. She may not have done what was required in terms of buying retainers every six months. S's records show she didn't buy the retainers. S may not have approved further aligners. The guarantee only gave the possibility of annual touch up aligners – not the certainty that they would actually be provided. I'm also conscious Ms M hasn't had to pay for retainers, which is a requirement to continue benefitting from the guarantee.*

*I accept there's a potential loss, but it's not straight-forward to establish the value of the perceived loss. And I'm required to resolve the complaint quickly and with minimum formality. As I've explained, I don't think HFL is required to remedy a failure in relation to the core treatment. But I think there's a possible loss because Ms M may have been able to utilise the guarantee.*

*HFL shared information from S saying the financial value of a 'touch-up' treatment is £220. It's difficult to know for certain if that's accurate. But this represents over 10% of the cost of the treatment. Considering we'll never know if Ms M would have continued to receive any benefits under the guarantee; taking into account she's received the core treatment, I think HFL should offer this £220 to remedy any potential loss. It seems like a fair compromise given I think the total amount paid was substantially for the core treatment.*

*While I am sorry to hear Ms M is unhappy, with s.75 in mind, I don't find there are grounds to direct HFL to refund her the full cost of the treatment. But I think our investigator's recommendation for HFL to refund £220 for the loss of the LSG is broadly fair in the circumstances so I don't intend to order it to do any more than refund to Ms M the amount of £220.*

*Putting things right*

- *HFL should refund to Ms M £220*

HFL has responded to agree to my findings and offered to pay Ms M £220 to resolve the complaint. Ms M hasn't replied or made any comments. As neither party has made any additional comments or made any further submissions for me to consider, I see no reason to depart from my findings as set out in my provisional decision. So, for the reasons explained, I partially uphold this complaint and, as HFL has now offered, I think it should pay Ms M £220 for the loss of the LSG.

### **Putting things right**

- HFL must refund to Ms M £220

### **My final decision**

For the reasons I've explained, I uphold this complaint in part. Healthcare Finance Limited must put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 16 October 2025.

Asma Begum  
**Ombudsman**