DRN-5893158

The complaint

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

What happened

In June 2023 Mr S entered into a two-year fixed sum loan agreement with HFL to fund the provision of dental aligners from a third-party supplier. The cash price was around £1,600 and Mr S was due to pay back the agreement with monthly payments of around £70. I understand he was initially provided aligners for a few months' treatment. He said in December 2023 the supplier agreed to provide him with further 'touch up' aligners under the guarantee but he said he didn't receive them.

The supplier went out of business in December 2023, so Mr S contacted HFL to make a claim. He requested a full refund. HFL considered the claim as a potential breach of contract under Section 75 of the Consumer Credit Act 1974 ("s.75"). It said it acknowledged the supplier provided a lifetime guarantee but didn't think Mr S met the conditions for it because he'd not completed certain check ins, so it declined the claim. Mr S referred his complaint to the Financial Ombudsman. He said he'd been left without the results he'd been promised and that it had caused distress and inconvenience.

Our investigator looked into things and thought HFL should refund Mr S what it said was the value of one set of touch up aligners – £220. She recommended this because Mr S had shown the supplier had approved him further aligners prior to going out of business, which suggested it hadn't excluded him from eligibility for aftercare. HFL agreed.

Mr S didn't agree. He said he was still ongoing treatment when the supplier went out of business. He said he's seen anyone that was undergoing treatment was eligible for a full refund. He thought he should receive a full refund.

As things weren't resolved 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.

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 Mr S 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 Mr S's request for getting money back. But it's

important to note HFL isn't the supplier. I can't hold it responsible for everything that went wrong with the supplier.

S.75 is a statutory protection that enables Mr S 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 him 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.

I've focussed on Mr S's breach of contract claim. Even if the supplier 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 Mr S the treatment. I've thought about the potential avenues Mr S may have had a valid claim.

Implied terms

Mr S mentioned he wasn't happy with the treatment results. I'm sorry to hear that. In cases such as this it is often complex to assess the quality of the service Mr S paid for. Results from these sorts of treatments are subject to many variables and there are generally disclaimers by the providers of such services, and accepted risks that results aren't guaranteed.

While Mr S may have been unhappy with the results of the treatment, he's not provided supporting evidence such as an independent, expert opinion that sets out the treatment he paid for has not been done with reasonable care and skill as implied by the Consumer Rights Act 2015 ("CRA"). I'm mindful it is the manner in which the service was provided, rather than the results of the treatment, that is the crucial issue for me in considering whether there's been a breach of an implied term in relation to the service.

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 the supplier offered wasn't carried out with reasonable skill and care, and I've not seen evidence the goods element – i.e, the aligners, were not of satisfactory quality. I don't think the fact the supplier agreed to provide further treatment for refinement or 'touch up' in itself shows the original core treatment wasn't carried out with reasonable care and skill in line with the implied terms of the contract.

Express terms

I also need to consider what I think Mr S's contract with the supplier 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 Mr S as I understand they were kept in an online application that's no longer available. There's a lack of evidence. But it's not in dispute Mr S was due to receive a set of aligners when he entered into the contact in June 2023 and that he received and used them. I think the core contract was for those set of aligners that he used for a few months.

I think it likely Mr S signed an agreement with the supplier which included a consent form, as is common with these sorts of treatments. We don't have a signed copy, but I've seen an example copy. This sets out the various risks and uncertainties with such a dental treatment. And it indicates Mr S would have understood the supplier couldn't guarantee specific results or outcomes. Given the nature of the treatment, I don't think those sorts of terms are unfair or unusual. So even if Mr S didn't quite get the results he wanted after the core treatment I don't think that would be considered a breach of contract.

While I appreciate Mr S is put in a difficult position because some of the evidence isn't available, I can only consider how HFL acted based on what was able to be supplied. In the absence of a specific signed contact, I've looked at the supplier's website from around the time Mr S entered into the contract. This says most treatment lasts between 4 to 6 months. It says if the customer hasn't achieved the results they want, and providing they've met certain conditions, they might be eligible for additional 'touch up' aligners.

Taking into account Mr S entered into the agreement in June 2023; the core treatment was due to last a few months; and Mr S was approved 'touch up' aligners, I think I can conclude from that the original core treatment had ended before the supplier went out of business.

I'll go on to think about what services the supplier was required to offer after the initial treatment, and whether there's been a breach of contract. Further aligners seem to be part of the supplier's aftercare offering for further refinement (subject to dentist approval). It's not clear whether the supplier agreed to provide Mr S further aligners because it thought the results could be improved upon or whether it was for some sort of failing on its side. We don't have sufficient evidence to conclude.

While I'm sympathetic Mr S may have been unhappy with the results, I don't think HFL had sufficient evidence to show the supplier breached the express terms of the contract in respect of the results he achieved.

Guarantee

On the supplier'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 once a year.

From what I can see the availability of a 'touch up' isn't the same as saying that particular results will be achieved. It seems like it's intended for refinement if possible. What the guarantee offered was the possibility of having further aligners provided that during treatment Mr S registered his aligners; wore them as prescribed; completed check ins; stayed up to date on payments. And that, after treatment, Mr S 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.

Mr S said a dentist approved further treatment in December 2023. The evidence on whether he met the conditions for the guarantee is incomplete and conflicting. But in any event, HFL has now agreed to make an offer for what it says is the value of a year's 'touch up' aligner.

Mr S thinks he should be provided with a full refund of the treatment costs. There is a breach identifiable because Mr S can no longer use the guarantee. However, given the stage of treatment he was at, the guarantee would never have given him 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 Mr S began the treatment around June 2023, and only if Mr S had not opened or used the aligners. I don't think it would be fair or reasonable for me to tell HFL that it should now provide Mr S with a full refund to compensate him for the breach or 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 Mr S. He may not have done what was required in terms of buying retainers every six months. The supplier may not have approved further aligners, although I appreciate Mr S said it had before it went out of business. Overall, I accept there's a potential loss, but it's not straight-

forward to establish the value of that.

HFL shared information from the supplier 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 a refund of over 10% of the cost of the treatment. Considering we’ll never know if Mr S would have continued to receive any benefits under the guarantee; taking into account he’s received the core treatment, and that he said he was offered further treatment before the supplier went out of business, I think our investigator’s recommendation for HFL to offer this price reduction is fair 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 Mr S is unhappy, with s.75 in mind, I don’t find there are grounds to direct HFL to refund him the full costs of the treatment. I think the recommended outcome is broadly fair in the circumstances. I should, however, point out Mr S doesn’t have to accept this decision. He’s also free to pursue the complaint by more formal means such as through the courts if he thinks he’d achieve a more generous outcome.

My final decision

My final decision is that I direct Healthcare Finance Limited, to the extent not done so already, to pay Mr S £220.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 17 November 2025.
Simon Wingfield
Ombudsman