DRN-6162354

The complaint

Mrs U complains about how Healthcare Finance Limited ('HFL') responded to a claim she made to it in respect of dental treatment she paid for using the fixed sum loan it provided.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Mrs U purchased orthodontic dental treatment from a supplier ('the supplier') for £2,360 using a fixed sum loan from HFL in January 2024.

Mrs U made a claim to HFL in January 2025 about the purchase. She said the supplier stopped trading at the start of November 2024 and her dental services were no longer continuing. She said she was going to have to start over again with another provider.

HFL considered the claim in respect of its liability under Section 75 of the Consumer Credit Act 1974 ('Section 75') and responded to state that it would not issue a refund. It said Mrs U had received half her aligners and treatment was still available through a third party.

Mrs U escalated her complaint about the claim to this service. Our investigator upheld it, but HFL asked for the matter to be considered again by an ombudsman.

I issued a provisional decision on this case which said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

I note here that HFL had another entity respond to this complaint on its behalf. However, my references to HFL are taken to include representations made on its behalf.

I am sorry to hear Mrs U is unhappy with the dental treatment she bought from the supplier. I am also sorry to hear about the impact of this on her. However, it is important to note that my decision here is about the actions of HFL– and what it should fairly have done for Mrs U in its position as a provider of financial services. In looking at how it handled the claim Mrs U brought to it I consider the information reasonably available to it at the time, along with the relevant protections available to Mrs U. I consider Section 75 to be particularly relevant here.

Section 75 can allow Mrs U in certain circumstances to hold HFL liable for a breach of contract or misrepresentation by the supplier of the financed dental treatment. There are certain technical criteria which need to be met for Section 75 to apply, and I am satisfied these are likely met here. Therefore, I move on to consider whether the supplier of the treatment has breached its contract with Mrs U or misrepresented it.

Limited information

It is worth noting there are challenges presented by limited information in respect of Mrs U's individual treatment plan and contract. However, I have looked to decide what is fair based on the information reasonably available to HFL when considering this Section 75 claim. This includes a blank copy of the supplier 'Informed consent & agreement' form, information on the supplier and treatment manufacturer's website, what limited information HFL may have been able to reasonably access from the supplier or third parties, and Mrs U's testimony.

Misrepresentation

Mrs U's claim to HFL appears to be about breach of contract rather than misrepresentation. But in the interest of completeness, in any event I don't consider there to be persuasive evidence available to HFL when it considered the claim that the supplier had misrepresented its service to Mrs U at the outset. Even if it couldn't provide all the services it promised because it went out of business – this would not likely amount to a misrepresentation as there is no suggestion that the supplier was aware it would be going out of business when it sold Mrs U the treatment.

Therefore, I have focused on breach of contract here. Which I turn to now.

Breach of contract

When considering whether there has been a breach of contract by the supplier I consider the express terms of the contract along with any terms implied by relevant law such as the Consumer Rights Act 2015 ('CRA').

The way the treatment was provided

The CRA implies terms into consumer contracts to say that services will be provided with reasonable 'care and skill'.

While there is no specific definition of reasonable care and skill – of particular relevance will be what is considered good practice in the industry in question.

I don't think Mrs U's claim to HFL is about a lack of care and skill by the supplier here. So I am not going to focus on that point here. In any event, due to the complexity of the cosmetic/medical product here I think it would have been difficult for HFL to have concluded that the supplier had acted without reasonable care and skill based on the information Mrs U provided in her claim to it (which didn't include any expert evidence).

The express terms of the contract

In order to determine if there has been a likely breach of any express term(s) of the contract I have considered the supplier's information from around the time Mrs U bought the treatment, alongside other information such as Mrs U's credible testimony and evidence of her communication with the supplier.

I consider all parties agree Mrs U entered into a contract for aligner treatment with the supplier in January 2024. I acknowledge that I don't have a copy of Mrs U's specific treatment plan or the contractual agreement signed. But from the information I have (including Mrs U's testimony) I am satisfied that on balance the core contract was for a set of aligners used for straightening teeth at home with ongoing support from the supplier via clinic appointments. I can see that to underline this Mrs U has provided several text messages from the supplier showing she attended in person for clinic appointments in respect of the treatment.

There seems to be no dispute that Mrs U had not finished her treatment when the supplier ceased trading in November 2024. I can also see this is supported by text messages which Mrs U has showing she was due an in-person appointment around that time but it was cancelled by the supplier.

Because Mrs U did not finish her treatment, I am satisfied that the supplier has breached its contract with her. I know that HFL has indicated that a third party took over the treatment, but Mrs U has provided persuasive testimony to say the named third party ('M') never reached out to her. I also note that on the supplier's website it indicates M has taken over treatment but still says the clinic is closed for refurbishment.

I can see another named third party appears to have reached out to Mrs U ('S') after she found out that it might be providing replacement treatment – and she said she had an unprofessional follow up from them and has never heard back. It appears S might be the trading name of M – but from what Mrs U has said and from news articles online I am not persuaded S has effectively remedied the breach of contract by the supplier. It appears to have kept patients like Mrs U waiting for an unreasonable period to continue treatment.

The question here is a fair remedy for the outstanding breach of contract. When considering a service that has not been carried out fully repeat performance can be a viable option. However, if that is not possible then a full or partial refund can be fair.

Here it isn't certain how far Mrs U was into her treatment when it ceased as I don't have a copy of her specific treatment plan. Mrs U says it started around March 2024 and was due to end 15 months later. Looking at this type of treatment online – this is not an unusual timescale so I am willing to accept it is likely correct. I don't agree that because Mrs U says she has received all the aligners it would mean her treatment is complete either – as information online from the manufacturer regarding this type of aligner treatment shows that it requires regular ongoing support from the supplier via follow up appointments. Mrs U didn't want to continue without this support (and has also stated she has fitment issues with the later aligners) so I don't consider she was unreasonable in discontinuing treatment.

With that said I am also persuaded Mrs U has had some benefit from the treatment to date as she says she has now paid £300 for retainers so her teeth do not move back. Furthermore, she says her dentist says she needs another 9-12 months of treatment – which (based on what she said) isn't quite as much as her original plan with the supplier.

However, I also accept Mrs U did not enter the contract with the supplier for partial treatment. And the outcome she wanted was a full treatment with support to maximise the

benefits of the aligners. So an option to remedy the breach here is replacement treatment. From the information I have seen and been provided by Mrs U I am persuaded that a dentist is unlikely to simply continue where Mrs U left off - and it is likely Mrs U will need to start another course of treatment.

With all this in mind I propose the following. Mrs U can decide on ***one*** *of these alternatives:*

A. *To retain the progress she has made to date and receive a partial refund of the cost of treatment. Deciding what figure is fair for a partial refund is not a science here. However, I have factored in that Mrs U appeared to be just over halfway through her treatment when it ceased. I note she says she was on aligner '25 of 33' which indicates she was even further along than this. However, Mrs U will also not benefit from any aftercare she would likely have received from the supplier either (its website mentions 'exceptional aftercare'). With all this in mind, I think a refund of 50% of the cost (including associated interest) would be fair here – which HFL can pay back to the loan (and if this results in an overpayment it can refund this back to Mrs U with interest from the date it gave her claim outcome to the date of settlement).*

B. *To confirm replacement treatment with another provider and receive a full refund. However, HFL will only be required to refund all amounts paid to the loan (with out of pocket interest as mentioned above) and cancel the loan going forward once Mrs U provides an invoice and contract for treatment from a third party confirming she has committed to replacement aligner treatment (to show she is actually incurring a financial loss flowing from the supplier's breach). I am aware Mrs U has had some benefit from the initial course of treatment– however, I think that a full refund is still fair here noting the cost of like for like treatment is likely to have gone up somewhat and Mrs U is unlikely to benefit from notable savings in taking out a new course because of the treatment she has had to date. For clarity, I note Mrs U appears to want to go with a different manufacturer of aligner treatment going forward. That is her choice – however, it doesn't mean that HFL can refuse to refund her here – nor does it mean that HFL is liable for increased costs because of Mrs U choosing a different manufacturer. However, in the unlikely event that Mrs U can get a replacement treatment for less than her original treatment then HFL will only be liable to refund up to that amount.*

I note Mrs U indicates she has paid out for retainers and removal of the grippers in respect of her previous aligner treatment. She said these costs were meant to be covered by the amount she paid to the supplier via the loan – which based on Mrs U's credible testimony and the cost of her treatment seems likely. So if Mrs U can provide receipts for these costs, then HFL should fairly refund these in addition to one of the options she chooses from above.

I hope both parties can see this as a reasonable way forward. I am not saying it is a perfectly scientific remedy. However, noting my informal remit and the uncertainties here around certain matters I consider it broadly fair and reasonable. However, I remind Mrs U that she does not have to accept my decision and may choose to pursue action by more formal means (such as court).

My provisional decision

I uphold this complaint and direct Healthcare Finance Limited to (depending on what Mrs U decides) either:

A. *Refund Mrs U 50% of the total cost of the financed treatment (including associated interest charged on the loan) – if this creates a credit balance it should refund her*

*this; **or***

B. *On production of an invoice and contract showing Mrs U has committed to replacement aligner treatment refund Mrs U in full for the payments she has made toward the treatment and cancel any outstanding loan agreement with no further payments due. If the replacement treatment costs less than the original treatment it will only be liable to refund that amount.*

In addition to the option chosen above (in either case) HFL should also reimburse Mrs U for the already incurred costs of the retainer and removal of the grippers from her previous treatment on production of proof of payment for these.

Whatever option is chosen HFL should pay Mrs U 8% yearly simple interest on any refunded payments calculated from the date of its claim outcome (31 January 2025) to the date of settlement. It should also ensure that there are no adverse entries on Mrs U's credit file in respect of the agreement to date.

If HFL considers it should deduct tax from the interest element of my award it should provide Mrs U with a certificate of tax deduction.

HFL did not provide further comment by the deadline. Mrs U agreed with the decision and said she would like to take option A. She provided evidence to show that she had incurred the cost of £300 for retainers and £95 to have the consultation which included removal of the grips.

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.

Neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision.

I have explained that any refunds back to Mrs U will attract out of pocket interest. I thank Mrs U for providing a receipt for her consequential losses of £95 and £300. I note this shows these were paid for after the claim outcome (27 June 2025 and 1 July 2025 respectively) – so any out-of-pocket interest for these refunds will be calculated from these dates.

Putting things right

As set out below.

My final decision

I uphold this complaint and direct Healthcare Finance Limited to:

- Refund back to the loan 50% of the total cost of the financed treatment (including associated interest charged) – if this creates a credit balance it should refund Mrs U this;
- reimburse Mrs U £395 for the expenses discussed above; and
- pay Mrs U 8% yearly simple interest on any refunded payments calculated from the date of its claim outcome (31 January 2025) to the date of settlement (or in the case of the £395 expenses from date of payment). It should also ensure that there are no adverse entries on Mrs U's credit file in respect of the agreement to date.

If HFL considers it should deduct tax from the interest element of my award it should provide

Mrs U with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs U to accept or reject my decision before 18 March 2026.

Mark Lancod
Ombudsman