

## **complaint**

Mr B complains that Carnegie Consumer Finance Limited ('CCF') won't let him withdraw from a fixed sum loan agreement he took to cover the cost of a course.

## **background**

In September 2018 Mr B enrolled on a course to become an electrician with a company I'll refer to as 'D'. The course cost a total of £7,800. Mr B paid a £60 registration fee and applied for an interest free fixed sum loan of £7,740 with CCF to fund the course.

Mr B says his personal situation changed shortly after and he no longer could complete the course. He told CCF this was due to him being self-employed and not having a regular income. He later told this service he didn't want to complete the course as a company he did work for had enrolled him on a different professional course shortly after he enrolled with D.

Mr B says he made "*all possible attempts*" to tell D he no longer wished to complete the course, but he couldn't get hold of anyone. In November 2018, after being sent a letter asking him to make a repayment to the loan, Mr B complained to CCF. He said he wanted to cancel the course and loan, believing he shouldn't have to pay.

In December 2018 CCF issued its final response letter. It said it wasn't upholding Mr B's complaint. It said the documents Mr B received when he enrolled in the course made it clear he had 14 days to cancel the agreement. It said it hadn't seen any evidence Mr B had told D within 14 days that he no longer wished to complete the course. It said the first time it believed Mr B had spoken to D about cancellation was in November 2018, But, it said it would consider any evidence Mr B had that showed he did try to cancel the course within 14 days. And, it said if he was struggling to make the repayments it would be happy to discuss an arrangement with him.

Mr B was unhappy with this and referred his complaint to our service. After he'd brought his complaint to us, Mr B sent in phone records that he said showed he tried to cancel within 14 days of enrolling. CCF wrote to Mr B and ourselves saying this didn't change its opinion, as Mr B had called the wrong number.

Our service began to look into Mr B's case. Our investigator didn't uphold Mr B's complaint. He said D had made it clear Mr B would need to cancel the agreement within 14 days. He didn't think Mr B had done so.

Mr B was unhappy with this, so the complaint has been passed to me to decide.

## **my findings**

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 don't think this complaint should be upheld. I'll explain why.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 "CCR" are relevant to this complaint. These say a consumer can cancel certain contracts – which includes Mr B's – at any time in the cancellation period. The CCR

says the cancellation period for Mr B's contract was for 14 days after the day the contract was entered into.

I've considered the documents Mr B received when he enrolled in the course. I've seen a copy of the 'registration form' Mr B completed when he applied. In a box titled "*IMPORTANT*" just above where Mr B signed, point five out of seven says:

*"I have read clause 6 of the terms overleaf and confirm that I understand my cancellation rights"*

Clause six of the terms says:

*"You will have the right to terminate the self-study program as stated in the Notice of the Right to Cancel the Contract Below"*

On the bottom of these terms under a highlighted area called 'Notice of the Right to Cancel the Contract' it says:

*"If a contract has been entered into, you may cancel the contract at any time without cause within 14 calendar days beginning with the day after the date of the contract"*

*"A contract is deemed cancelled provided the cancellation is sent or otherwise notified to us within the 14 calendar day cancellation period. If there is a dispute as to whether or not a contract has been cancelled you will need to provide evidence of cancellation, for example proof of posting"*

*If you cancel the contract within the 14 calendar day cancellation period any related credit agreement will be automatically cancelled"*

It then goes on to explain that the contract can be cancelled by phone, fax, email or by returning the 'cancellation notice' which is included on the form.

I've thought about this and I think the terms reflect what the CCR says about Mr B's cancellation rights.

Having considered what Mr B saw when he enrolled in the course, I think he would've understood he had 14 days to cancel the agreement. I've thought about whether he did this or not.

I've considered what the CCR says about exercising the right to withdraw or cancel. This says to cancel a contract:

*"The consumer must inform the trader of the decision to cancel it"*

In relation to how it should be cancelled the CCR says a consumer can:

*"make any other clear statement setting out the decision to cancel the contract"*

Mr B agreed to the contract on 7 September 2018. He sent some phone records which show he called someone on 24 September and 19 October 2018. But, these calls were made more than 14 calendar days from the day after Mr B signed the contract. The first call shows

as 'cancelled' and the second call lasted six seconds. And, the number called isn't the number given in the registration form to cancel.

I haven't seen any other evidence to suggest Mr B contacted D, or CCF, by phone, email, fax or any other method within 14 days of signing up to the course. And, I haven't seen anything to suggest he sent D the cancellation notice.

It's also worth noting that the CCR says:

*"In case of dispute it is for the **consumer** to show that the contract was cancelled in the cancellation period in accordance with this regulation"* (emphasis added by myself).

So, I'm satisfied it's Mr B's responsibility to show he validly cancelled the contract.

Thinking about everything, I haven't seen enough to make me think Mr B let D, or CCF, know he wanted to cancel the contract within 14 days. It follows that I don't think Mr B validly cancelled the contract. So, I don't think CCF did anything wrong by not cancelling the associated finance.

Finally, I have considered that Mr B has mentioned he would struggle to pay for the course. In its final response letter CCF said it would consider an arrangement with Mr B to repay the loan if he is struggling. It might be prudent for Mr B to contact CCF to discuss this. I'd expect them to treat his situation positively and sympathetically if he's in financial difficulty.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 August 2020.

John Bower  
**ombudsman**