

The complaint

Mr M complains about an invoice he has received from Brazier Consulting Services Ltd ("Brazier") for work carried out on claims for mis-sold Payment Protection Insurance (PPI) and payday loans.

What happened

Mr M instructed Brazier to act on his behalf in relation to a number of PPI and payday loan claims. Mr M says he provided Brazier with all relevant information and then didn't hear back for a while. Mr M says he received a text from Brazier and replied to book a call back, but he then didn't hear back from them. Mr M says he then received an invoice for £250 claiming that an award had been recovered from a lender. Mr M contacted Brazier and they then claimed the £250 was for cancellation charges. So, Mr M complained.

Brazier responded and explained the cancellation charges had generated on three of his claims. They said the claims against Lender P and Lender M required further information which Brazier said they had asked Mr M for on numerous occasions but never received. And, they had been told that in relation to the claim against Lender L, Mr M had removed their authority before Brazier had received their final response. Brazier said they therefore charged a cancellation fee in line with their terms and conditions. They also confirmed they hadn't received any money from any of the lenders.

Our investigator looked into things for Mr M. She thought Brazier had acted unfairly in charging a cancellation fee and recommended they waive this. Brazier haven't responded so the matter has come 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've decided to uphold the complaint. And, I think the investigator's recommendation is a fair way to resolve matters.

I think it's important to stress I've made my decision based on the information I have. I can see our investigator has provided Brazier with details of the complaint being made against them and allowed them a number of opportunities to provide information. It's important that we get an account from all parties in order to consider the complaint fully. In this case, while Brazier have provided limited information, they haven't responded to our investigator's requests for further information.

I'm satisfied we've taken sufficient steps, and given sufficient time, to enable them to respond. I must be fair to both parties and don't feel it's reasonable, in this case, for Mr M to have to continue waiting for an answer to his complaint.

There's no dispute here that Mr M instructed Brazier to act on his behalf in relation to claims against Lender P, Lender M and Lender L. Brazier have also provided a signed Letter of Authority ("LoA") for each of these lenders. The dispute here relates to the fee being

charged. Brazier say this represents cancellation charges, but Mr M says this conflicts with the information on the invoice which suggests money has been recovered and the fee represents Brazier's success fee. And, Mr M also says he has always responded to Brazier's requests for information so he doesn't understand how they can charge a cancellation fee.

I've looked at the terms and conditions which Mr M agreed when he instructed Brazier. Under the heading 'What we expect from you', it says, *"To provide us promptly with all relevant information and items we request to enable us to pursue your claim."* Then, under the heading 'Cancelling this agreement' it says, *"You may terminate the Agreement within 14 days of the date you sign the Letter of Authority...If you wish to cancel after the 14 day period, there will be a charge of £40 + VAT per hour for any work undertaken on your case. If you withdraw our authority to work on your behalf after the 14 day cooling off period, there will be a charge of £40 per hour for any work undertaken."*

Brazier say the cancellation charges have arisen as a result of Mr M cancelling the LoA for Lender L, and not providing information for his claims against Lender P and Lender M. The LoA's for these lenders have been signed by Mr M in May 2019. And, given that I've seen no evidence that Mr M cancelled his instructions for any of the claims against these lenders within the 14-day cooling off period, I'm satisfied a cancellation fee is potentially chargeable in the event that Mr M doesn't provide information or cancels his instructions to Brazier.

I can see our investigator has asked Brazier for evidence that Mr M cancelled their authority for the claim against Lender L before receiving their final response, but they haven't provided any evidence of this. Our investigator then approached Lender L direct and asked if they had received any contact from Mr M to cancel Brazier's authority to deal with the claim. Lender L confirmed they have no record of Mr M raising a claim either direct or through Brazier. Given that they have no record of any claim being made, it follows that there's no evidence that Mr M cancelled Brazier's authority to deal with the claim. So, in this respect, I don't think a cancellation charge is reasonable.

In relation to the claims against Lender P and Lender M, Brazier say, despite requesting information on numerous occasions, Mr M never provided this. Brazier say they contacted Mr M by text and then tried to call on several occasions. They say they made numerous attempts to contact Mr M about these claims. I can see our investigator has asked Brazier for evidence of their contact with Mr M asking for further information but Brazier haven't provided any evidence of this. In the absence of this, I've considered Mr M's testimony and information provided by Mr M which includes emails between him and Brazier.

Mr M accepts he received contact from Brazier by text and confirms he responded by text to book a call back, but he never heard back from Brazier. I can see Brazier then email Mr M in February 2020 and apologise for not having been in touch for some time. They confirm they're still working on Mr M's claims but, given that lenders have received a high volume of complaints due to the PPI deadline, there have been delays in processing complaints. Brazier say they'll contact Mr M as soon as they hear back from the lenders.

I can see Mr M then emails Brazier in May to say he has received an invoice for £250 which claims he has received an award. I've seen this invoice and, under the heading 'Amount recovered', it gives a figure of £1,041.66. And, beside this, it says the cancellation charges are £208.33 – and the total with VAT being £250. Mr M confirms he hasn't received any award and still not received a call back regarding Lender P and Lender M. Mr M then chases on 1 June and 30 June. Brazier respond on 2 July to say a claims adviser will contact Mr M in the next 24 hours. Having not heard back, Mr M chases on 19 July to say he has

responded to their texts and sent emails but he hasn't received a response. Mr M chases again on 14 September.

Brazier respond and confirm the invoice Mr M received was for a cancellation charge and not for a successful claim so he won't be receiving a refund. Mr M responds and asks how a cancellation charge has arisen as he has been trying to contact Brazier for some time. Mr M asks Brazier to confirm the position with his claims and whether they require any information from him. Brazier respond and explain the cancellation charges were generated as they tried to get in contact with Mr M but weren't successful. They say Mr M is now liable to pay £250 for the claims against Lender P and Lender M. Brazier say the claims needed to be submitted through a portal but because they were unable to get hold of Mr M, they can no longer be looked into.

Mr M responds and explains it's Brazier who haven't been responding to his emails. Brazier respond and say they've been trying to contact Mr M since 2019 to get the claims logged against Lender P and Lender M but weren't able to get hold of him. Mr M responds and says Brazier contacted him and said they will be in touch, but despite his many emails, they never responded to him. Mr M explains he has received an invoice from Brazier which claims they've recovered some money from a claim but are instead asking for a cancellation fee. Brazier respond to say a claims adviser will contact Mr M within 24 hours. Mr M then emails Brazier and queries how Brazier haven't been able to contact him. He says Brazier sent him a text asking him to contact them by phone, email or by replying to the text. Mr M says he replied by text on more than one occasion but he then received an invoice for £250 which also shows an amount of £1,041.66 which has been recovered. Mr M asks Brazier to deduct their fees from the amount recovered and to send him the remainder. Mr M also asks for an update on all of his claims.

Brazier respond and provide an update on Mr M's claims – this update doesn't include the claims against Lender P and Lender M. Mr M responds and asks for an update on these claims and about the money which Brazier say has been awarded to Mr M. Mr M then emails again and refers to a missed call and text from Brazier about the cancellation fee. Mr M also refers to a text message he received from Brazier in June to say they were trying to contact him in relation to his claim against Lender M. Mr M refers to his previous emails and asks Brazier to respond to the points he has raised. Brazier respond and confirm the invoice was worded incorrectly and no money has been recovered.

From the information I've seen, I can't see that Brazier, prior to sending the invoice, asked for any information from Mr M in relation to his claims against Lender P and Lender M. There is a text message in June but I can see Mr M has been in contact with Brazier before this, on the same day as the text message, and after the text message. So, I can't see there's any evidence that Mr M hasn't provided any information requested by Brazier. I note Brazier say they weren't able to get hold of Mr M, but the information I've seen shows Mr M was in regular contact with Brazier and it was Brazier who weren't corresponding with Mr M in a timely manner.

I note the invoice refers to an amount being recovered but lenders will generally contact a customer direct to confirm if the claim is upheld and to pay any award. Given that Mr M hasn't received any direct contact from any lender, I believe the invoice is for cancellation charges and not a success fee arising out of a successful claim.

Taking this all into account, I haven't seen any information which suggests Mr M's actions or omissions have led to the three claims being cancelled, so I can't say the cancellation fee is

fair and reasonable in the circumstances. It therefore follows that I uphold this complaint and don't agree Brazier are entitled to the cancellation fees they have claimed.

Putting things right

I've taken the view that Brazier haven't acted fairly in charging Mr M cancellation fees for the claims against Lender P, Lender M and Lender L. So, they should cancel the invoice sent to Mr M for these fees.

My final decision

My final decision is that I uphold the complaint. Brazier Consulting Services Ltd must cancel the invoice sent to Mr M for their cancellation fees.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 May 2022.

Paviter Dhaddy
Ombudsman