

Case study

Clawback

Background

Kiara contacted Financial Dispute Resolution Service about a clawback fee being charged.

She had arranged a mortgage through a broker and signed all the paperwork, before changing her mind and arranging to refinance with another lender.

She subsequently claimed that the broker had not taken her best interests into account as a Financial advisor and that the broker was now pressurising her to pay a clawback of \$2750. She felt she was misguided and misrepresented by the broker.

Next steps

Financial Dispute Resolution Service opened a case and collated information from Kiara and her broker.

The broker provided comprehensive documentation of their communication with Kiara, and copies of all information provided to Kiara as part of her application. These documents included a Disclosure Statement, a Client Authority and Declaration signed by Kiara, and email from Kiara acknowledging she had read and understood their Terms of Engagement. This included details around how they would be paid and the situations where they could recover a commission clawback from her. Kiara had previously corresponded with the broker, acknowledging that she understood her need to pay.

The broker was not willing to waive the charge, but they did offer a payment plan for Kiara, rather than enforcing immediate payment in full.

Outcome

While Kiara maintained her disappointment with the lender's business practice, Kiara agreed to pay the clawback fee in full in instalments and the complaint was closed.



**Names have been changed to protect our customers' identities*