

The complaint

Mr W complains that Creation Consumer Finance Ltd hasn't refunded the cost of a damaged sofa.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute so instead I'll focus on giving the reasons for my 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 agree with the conclusions reached by the investigator for the following reasons:

This complaint has been submitted as a claim under section 75 of the Consumer Credit Act 1974. Section 75 offers protection to customers who use certain types of credit to make purchases of goods or services. Under section 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services, if there has been a misrepresentation or breach of contract on the supplier's part.

For section 75 to apply, the law effectively says that there has to be a:

- Debtor-creditor-supplier chain to an agreement *and*
- A clear breach of contract or misrepresentation by the supplier in the chain.

I am satisfied the required debtor-creditor- supplier link is in place. I am also satisfied that there has been a breach of contract in that the sofa was damaged when being delivered to Mr W. The merchant has ceased to trade and Creation has accepted responsibility.

The sofa was ordered in January 2020 and delivered in June. Mr W complained to Creation in August 2020. Under consumer law the merchant is entitled to one opportunity to make a repair of any damaged goods. The independent inspection reports that the sofa can be repaired and would take less than two hours. Creation has agreed to pay for those repairs. I consider that to be a fair and reasonable response.

Mr W has said he wants a refund. However, as the goods can be repaired and returned to an acceptable state I do not see that there is any basis for a price reduction. He will have a sofa which has been fixed and so there is no requirement on Creation to pay him additional money.

Putting things right

The sofa should be repaired.

My final decision

Creation Consumer Finance Ltd has already made an offer to pay for the repair to the sofa to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Creation Consumer Finance Ltd should pay for the sofa to be repaired.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 April 2022.

Ivor Graham
Ombudsman