

The complaint

Ms K complains about a fixed sum loan agreement (“agreement”), the terms and conditions of which Hitachi Capital (UK) Plc (“Hitachi”) are holding her to.

What happened

On 24 August 2020 Ms K entered into an agreement with Hitachi for an item she had purchased, costing £1,599, from a company that I will call “D”.

Under the terms of the agreement Ms K undertook to pay Hitachi £1,599 before 24 May 2021 or £2,358.36 at £65.51 a month for 36 months commencing 24 May 2021. The agreement stated that Hitachi would send Ms K a reminder of her right to pay £1,599 ‘interest free’ before 24 May 2021.

On 17 September 2020 Hitachi says it sent Ms K a ‘welcome letter’ which said that it would collect £65.51 a month from her nominated bank account on 24 May 2021 and on, or shortly after, 24 of each month.

On 12 April 2021 Hitachi says it sent Ms K a ‘reminder letter’ which said she could, before 24 May 2021, pay it £1,599 interest free.

On 24 May 2021, and with Ms K having not paid £1,599 (or any other amount in partial settlement of the agreement), Hitachi collected £65.51 from Ms K’s nominated bank account by way of direct debit.

On 28 July 2021 Ms K called Hitachi for a settlement figure. Ms K was unhappy with the sum she was advised she needed to pay and raised a complaint. She complained that she was advised by D her agreement was interest free, she had received no correspondence from Hitachi in respect of the agreement and she had been held in a queue when calling it previously.

On 5 August 2021 Ms K called Hitachi to complain that the agreement had been mis-sold to her and she had never signed it and she was advised the agreement would be interest free for its entire term of 45 months.

On 9 August 2021 Hitachi sent Ms K a final response letter (“FRL”). Under cover of this FRL Hitachi said it didn’t believe it had done anything wrong. It said that it had managed and administered the agreement in line with its terms and conditions and it had sent Ms K a welcome letter on 17 September 2021 and a reminder letter on 12 April 2021. It also apologised for the time Ms K had to wait for her an earlier call to be answered and provided an explanation as to why she had to wait for that call to be answered.

On 25 August 2021 Hitachi sent Ms K a (second) FRL. Under cover of this FRL Hitachi said that it was satisfied that the agreement hadn’t been mis-sold and had it been fully explained to Ms K by D. It also said that Ms K had signed the agreement (despite her submission to the contrary) and she was given a ‘hard copy’ of the agreement in store by D and sent a further copy by email.

Ms K wasn't happy with Hitachi's two FRLs so referred matters to our service.

This complaint was considered by one of our investigators who came to the view that it shouldn't be upheld.

Ms K didn't agree and so her complaint has been passed to me for review and 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 can confirm that I've come to the same outcome as the investigator and for the same reasons.

First, I would like to point out that where the information I've got is incomplete, unclear, or contradictory, I've to base my decision on the balance of probabilities. In other words, I've to base my decision on what I think is more likely to have happened than not. Secondly, if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Ms K submits that the agreement was mis-sold to her and she didn't sign it. First, having seen a copy of the agreement, I'm satisfied it was signed by Ms K, albeit electronically.

Now I know I can't say for certain what was discussed between Ms K and D. But the agreement (which I'm satisfied Ms K was provided a copy of and which she signed) doesn't support what she submits she was told. Furthermore, what Ms K submits she was told is simply not how agreements of this type work so I can't see how D would have misrepresented the terms in error. I also see no reason why D would have deliberately misled Ms K as to the terms of the agreement. So, on the balance of probability, I'm simply not persuaded the agreement was mis-sold.

Ms K says she didn't receive Hitachi's welcome letter or its reminder letter. But given that Hitachi has been able to provide copies of both letters, correctly addressed, and its contemporaneous system notes show these were sent and not returned, I can confirm that on the balance of probabilities I'm satisfied that these were sent and Hitachi can't reasonably be held responsible for their non-receipt. I would also add that by sending these two letters Hitachi met its regulatory obligations in respect of 'buy now pay later deals'.

Finally, and for the sake of completeness, I would add that although it might have been frustrating for Ms K to have been held in a queue when she called Hitachi sometime before 28 July 2021, I don't think this in itself warrants compensation.

Being held in telephone queues, when calling a financial business, is simply a 'fact of life'. And as pointed out by Hitachi Ms K did have the option of requesting a call back rather than continuing to hold. Furthermore, it should be remembered that in mid-2021 businesses were experiencing higher call volumes, often with less staff, because of the Covid-19 pandemic. Finally, it appears that despite my view that this matter doesn't, in itself, warrant compensation, it appears that Hitachi may have paid Ms K £15 as a gesture of goodwill.

I appreciate Ms K will be disappointed, but in summary I'm satisfied that Hitachi, in the particular circumstances of this case, has done nothing wrong.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 28 July 2022.

Peter Cook
Ombudsman