

## The complaint

Mr W complains about issues with a kitchen that he paid for using a fixed sum loan agreement with Mitsubishi HC Capital UK plc, trading as Novuna Personal Finance.

## What happened

I issued a provisional decision on this complaint in November 2022 in which I described what had happened as follows:

*“Mr W ordered a replacement kitchen from a kitchen supplier in July 2019. The kitchen price was £14,700 and the installation price was £2,700. Mr W made an advance payment of £3,400 and entered into a fixed sum loan agreement with Novuna Personal Finance, that he electronically signed in July 2019, for a loan of £14,000 to pay for the kitchen. He agreed to make 132 monthly payments of £301 to Novuna Personal Finance commencing twelve months after the installation of the kitchen.*

*There were some issues with the kitchen after it was installed so Mr W contacted the kitchen supplier. It arranged for some repairs to be made in January 2020 but there was then a delay in further work caused by the government imposed restrictions in response to the pandemic. It then arranged for the kitchen to be inspected and an installation report was issued which identified issues with the kitchen. The supplier agreed to do the required remedial work and arranged for a fitter to attend Mr W's home but all of the required parts weren't delivered and Novuna Personal Finance says that Mr W then asked the fitter to leave.*

*Mr W complained to Novuna Personal Finance in August 2020 and it agreed to extend the payment deferral period until March 2022. It arranged for the kitchen to be inspected by the Furniture and Home Improvement Ombudsman. Its report was issued in November 2021 and also identified some issues with the kitchen. Novuna Personal Finance said that if Mr W wished to have his own fitters complete the works it would arrange to send him the relevant parts and offer to pay £360 to cover the costs of the work and £500 compensation, or if the kitchen supplier was to complete the works identified in the Furniture and Home Improvement Ombudsman's report it would require dates from him and would pay him £500 compensation, or if he wished to leave the kitchen as it is it he would be paid £1,000 to reflect the outstanding issues.*

*Those offers weren't acceptable to Mr W. He complained to this service and he paid £150 in April 2022 for another inspection of the kitchen. The inspection report also identified issues with the kitchen. Our investigator recommended that Mr W's complaint should be upheld. He said that Mr W was entitled to reject the kitchen. He recommended that Novuna Personal Finance should: collect the goods and end the agreement, making good any damage caused; remove any negative information relating to the agreement from Mr W's credit file; and refund Mr W's deposit of £3,400, deducting £1,260 as a fair usage charge, with interest.*

*Mr W has asked for his complaint to be considered by an ombudsman. He says, in summary, that:*

- the fair usage charge is unjust, there's been no consideration for the cost of the April 2022 inspection report, his time and wasted holiday periods, endless phone calls and emails and the stress and constant dissatisfaction;*
- he's attempted to reject the goods, given more than two attempts of repairs to be completed and been told that any attempt to use a third party to repair the kitchen would breach the contract and guarantee;*
- this has had a devastating effect on his credit score which has caused more distress and been time consuming; and*
- the removal of the kitchen will entail further costs and anguish and concern.*

*Novuna Personal Finance hasn't accepted our investigator's recommendations and says, in summary, that the supplier had organised and agreed to complete the remedial works and supply the products and the only reason that that failed was due to a third party carrier failing to deliver the product at the agreed time and Mr W then asked the fitters to leave. It proposes that Mr W retain the kitchen with minor issues and to have a reduction in the price and the credit agreement – and it says that the supplier would still supply the ordered products to him and the remedial work would be minimal”.*

I set out my provisional findings in that provisional decision and said: “I agree with the our investigator that this complaint should be upheld but consider that it should be resolved in a different way for these reasons:

- Mr W used credit in the form of a loan from Novuna Personal Finance to pay for the kitchen and, in certain circumstances, section 75 of the Consumer Credit Act 1974 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier;*
- to be able to uphold Mr W's complaint about Novuna Personal Finance, I must be satisfied that there's been a breach of contract or misrepresentation by the kitchen supplier and that Novuna Personal Finance's response to his claim under section 75 wasn't fair or reasonable – but I'm not determining the outcome of Mr W's claim under section 75 as only a court would be able to do that;*
- the breach of contract about which Mr W is complaining is that the kitchen isn't of satisfactory quality – three inspection reports have been provided all of which identify issues with the kitchen so I consider it to be clear that there's been a breach of contract by the kitchen supplier for which Novuna Personal Finance is jointly liable under section 75;*
- the kitchen supplier has accepted that there are issues with the kitchen and it arranged for some repairs in January 2020 and then arranged for the kitchen to be inspected and the installation report was issued which identified some issues with the kitchen;*
- the installation report said:*
  - “Levels checked throughout kitchen, all tall housing out of level;*
  - Island dips in centre*
  - Wall units out of level*
  - Appliances poorly/incorrectly fitted. (f/freezer, fridge, oven & combi)*
  - Int Washing machine door fascia poorly fitted*
  - Plinth poorly fitted throughout*

Poor quality installation throughout  
 Left hand ... base of tall unit blown  
 Right hand ... top door bowed/twisted  
 [two] carcass ends blown either side of dishwasher  
 ... right hand door blown  
 Integrated dishwasher door blown  
 Integrated w/machine door incorrectly fitted/damaged plinth & end caps  
 Island w/top edge damaged (customer damage?)  
 Return w/top surface damage (customer damage?)”;

- *the kitchen supplier arranged for a fitter to attend Mr W's home in July 2021 and it says that it sent the required parts to Mr W but a third party carrier failed to deliver the product at the agreed time and Mr W then asked the fitters to leave;*
- *I can understand Mr W's frustration about this and the distress and inconvenience that it caused him but I consider that the supplier was willing to carry out the remedial works and that it's likely that they would have been completed if the parts had been delivered correctly;*
- *Novuna Personal Finance arranged for the Furniture and Home Improvement Ombudsman to inspect the kitchen in November 2021 and its inspection report concluded:*

“In my opinion the products purchased by the consumer from the retailer are of a satisfactory standard. It is also my professional opinion, and based on my visual inspection, the installation of the kitchen is to an unsatisfactory standard in certain areas. There are minimal remedial workings required to enable balance and bring the aesthetics up to a professional finish. The issues identified that require remedial work in my opinion, are a result of unsatisfactory workmanship” *and the report then identified the remedial works required;*

- *Mr W then paid £150 for the kitchen to be inspected again in April 2022 and the inspection report identified 26 itemised issues with the kitchen;*
- *it's clear that Mr W wants to reject the kitchen but I don't consider that rejection and the upheaval that it would cause and the making good that would be required would be a proportionate or appropriate remedy for the breach of contract in these circumstances;*
- *the kitchen was installed more than three years ago and, whilst it's clear that there are a number of issues with the kitchen, the Furniture and Home Improvement Ombudsman says that “minimal remedial workings” are required and all three reports identify specific issues that need to be corrected;*
- *I consider that it would be fair and reasonable in these circumstances for Novuna Personal Finance to arrange and pay for all of the issues with the kitchen that have been identified in any of the inspection reports to be remedied;*
- *those remedial works are likely to cause further disruption to Mr W and his wife – which is in addition to the substantial disruption that they've already suffered - and I find that it would be fair and reasonable for Novuna Personal Finance to pay Mr W £1,000 to compensate him for that disruption;*
- *I understand that Mr W hasn't made any payments under the loan agreement to Novuna Personal Finance and that it's issued a default notice to him – I consider that it would be fair and reasonable for Novuna Personal Finance to extend the deferral period under the loan agreement until such time as the remedial works have been completed and to remove any adverse information relating to the loan agreement that*

*it's recorded on Mr W's credit file; and*

- *I also consider that it should pay £150 to Mr W to reimburse him for the cost of the April 2022 inspection report”.*

Subject to any further representations from Mr W and Novuna Personal Finance my provisional decision was that I intended to uphold this complaint. Novuna Personal Finance hasn't responded to my provisional decision and Mr W says that he will accept the proposals regarding the repairs to the kitchen but would like the following points to be addressed:

- the final price he will pay is the initial cost without any interest added;
- the compensation amount, plus the cost of the inspection, should be deducted from the final bill;
- he should be given adequate time, after completion of the work, to make sure it's inspected thoroughly and acceptable;
- no final payment should be made until his credit score has been cleared of any defaults incurred by this situation; and
- he will require a full written guarantee from the supplier that the remaining warranties will be valid and will be responded to if he needs to contact it regarding any future issues.

He also says that he feels that the compensation doesn't reflect the stress, worry and lost wages incurred and that he didn't request the fitter to leave the premises when the required goods didn't appear but they chose to leave saying that there was nothing they could do and they would be contacting head office to find out what would happen next.

### **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.

Mr W says that he will accept my proposals regarding the repairs to the kitchen subject to the points that he's made but I'm not persuaded that I should change my provisional findings.

The price that Mr W will pay for the kitchen will be determined by the terms of the fixed sum loan agreement, other than that the deferral period is extended until such time as the remedial works have been completed. The deferral period will end when the remedial works have been completed. I'm not persuaded that the deferral period should be extended for any further period after completion of the work so that it can be inspected.

The compensation that will be payable to Mr W and the reimbursement of the cost of the inspection reports are separate from the amount that's repayable under the loan agreement. I don't consider that it would be appropriate for the compensation and the reimbursement to be deducted from the amount due from Mr W under the loan agreement. If Mr W wants to use those amounts to reduce the amount due from him under the loan agreement, I suggest that he contacts Novuna Personal Finance to discuss his options for making such a payment.

My decision will be binding on Novuna Personal Finance and it will be required to arrange and pay for all of the issues with the kitchen that have been identified in any of the inspection reports to be remedied but I'm not persuaded that it would be fair or reasonable for me to require it to provide any further guarantee or warranty from the supplier – any warranty and guarantee for the kitchen will be on the terms that Mr W agreed with the supplier when he

ordered the kitchen.

Novuna Personal Finance will be required to remove any adverse information relating to the loan agreement that it's recorded on Mr W's credit file. I'm not persuaded that it would be fair or reasonable for me to allow Mr W not to make any payments that become due under the loan agreement until the adverse information has been removed.

I consider that the compensation for the disruption that I've said should be paid by Novuna Personal Finance is fair and reasonable and I'm not persuaded that it would be fair or reasonable for me to require it to pay any more compensation than that to Mr W.

### **Putting things right**

I find that it would be fair and reasonable in these circumstances for Novuna Personal Finance to take the actions described in my provisional decision and as set out below.

### **My final decision**

My decision is that I uphold Mr W's complaint and order Mitsubishi HC Capital UK plc, trading as Novuna Personal Finance, to:

1. Arrange and pay for all of the issues with the kitchen that have been identified in any of the inspection reports to be remedied.
2. Pay £1,000 to Mr W to compensate him for the disruption that he's been caused and the further disruption that he's likely to suffer.
3. Extend the deferral period under the loan agreement until such time as the remedial works have been completed.
4. Remove any adverse information relating to the loan agreement that it's recorded on Mr W's credit file.
5. Pay £150 to Mr W to reimburse him for the cost of the April 2022 inspection report.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 January 2023.

Jarrold Hastings  
**Ombudsman**