

## **The complaint**

Mr R complains about how Creation Consumer Finance Ltd dealt with his claim under section 75 of the Consumer Credit Act 1974 for a refund of his purchase of a defective sofa.

## **What happened**

In August 2019 Mr R entered into a regulated fixed sum loan agreement with Creation to finance his purchase of a leather sofa. This was an interest-free loan, which was to be repaid in 48 monthly payments of £41.93.

Just over a month later, Mr R noticed that the leather was cracking. He reported this to the supplier of the sofa, who arranged for an independent inspection. After some delay, in March 2020, the supplier agreed to replace the sofa due to two faults which had been discovered. The leather was cracking and had also it lumps under it. The supplier also agreed in an email that the sofa did not have to be like-for-like, and allowed Mr R to choose a sofa with fabric instead of leather covering at no extra cost. However, the supplier went into administration before the sofas could be exchanged.

In August 2021, Mr R raised a claim with Creation under section 75. Creation asked him for proof that the sofa had been faulty. Mr R pointed out that the supplier had already accepted that the sofa was faulty, and had agreed to replace it. He said he had already provided Creation with the supplier's emails to verify this. He referred this case to our service, but Creation maintained its stance that it needed to see a report from an independent party. (Mr R had not been given a copy of the independent report obtained by the supplier, so this would have meant carrying out a new inspection.)

Our investigator upheld this complaint. He said that since a report had already been obtained, and that had been enough to persuade the supplier that the sofa was faulty and should be replaced (rather than repaired), Creation should have upheld Mr R's section 75 claim. He pointed out that Mr R had sent the relevant emails to Creation at the beginning of his claim. He recommended that Creation refund all of Mr R's payments, with interest, and collect the sofa.

Because agreement couldn't be reached, this case was referred for an ombudsman's decision. I wrote a provisional decision which read as follows.

## **What I've provisionally 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 am minded to uphold it, but also to award some compensation for Mr R's inconvenience due to the delay since August 2021.

Since the supplier accepted that the sofa was not of satisfactory quality when it was delivered to Mr R, and that it had come to that conclusion based on an inspection, I am satisfied that that is sufficient evidence to prove that the sofa was defective.

I have seen the emails between Mr R and the supplier in which the supplier accepts that repairing the sofa (instead of replacing it) would be a fair resolution to the matter. So I think that would have been a fair resolution, but it is no longer possible.

The Consumer Rights Act 2015 says that a remedy should be provided to a consumer “within a reasonable time and without significant inconvenience to the consumer”. For the purposes of Mr R’s section 75 claim, I will disregard the time that elapsed before he raised his claim in August 2021, but it has been over two years since then. I think that £200 is fair compensation for that, so I will add that to the redress which the investigator recommended.

### **Putting things right**

The agreement ended in 2023. So I think that fair redress would be for Creation to:

- Refund all of the payments Mr R made under the agreement, with simple interest at 8% a year from the dates of payment to the date the refunds are paid;
- Remove any adverse data about the agreement from Mr R’s credit file;
- Collect the sofa (if Creation wants to) at no cost to Mr R; and
- Pay Mr R £200.

### **My final decision**

Both parties accepted my provisional decision. So there is no reason for me to depart from my provisional findings, and I confirm them here.

My decision is that I uphold this complaint. I order Creation Consumer Finance Ltd to put things right in the way I have set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr R to accept or reject my decision before 17 May 2024.

Richard Wood  
**Ombudsman**