

The complaint

Miss S complains about the way in which Creation Consumer Finance Ltd handled her claim under section 75 of the Consumer Credit Act 1974.

What happened

In September 2019 Miss S purchased a new sofa from a retailer and entered into a finance agreement with Creation.

Miss S experienced a fault with the sofa in early 2022. She contacted the warranty company who arranged an inspection of the sofa. The inspection report found that the mechanism inside the sofa had dropped and twisted causing damage to the frame. The report stated that a new mechanism was required.

Miss S was happy to accept a repair. However, the retailer had gone into administration and the part required to repair the sofa wasn't available. In July 2022 the warranty company offered to refund the cost of the warranty because the repair couldn't be completed.

Miss S wasn't able to use the sofa and disposed of it. In December 2022 she raised a section 75 claim with Creation.

Creation rejected the section 75 claim. It said that the claim had been accepted under the warranty and that there wasn't a manufacturing fault.

Miss S complained to this service. She wanted to end the agreement.

Our investigator upheld the complaint. She said the sofa wasn't of satisfactory quality and that there had been a breach of contract under section 75. The investigator said that Creation should end the agreement, refund the deposit, refund payments made since May 2022 and pay compensation of £75 for distress and inconvenience.

Creation didn't agree. It questioned why Miss S had taken so long to raise a section 75 claim and said she shouldn't have disposed of the sofa because this had prevented an inspection being carried out.

I issued a provisional decision in which I said I was satisfied that there had been a breach of contract for the purposes of section 75. I considered the points made in response by Creation but said there was no time limit for bringing a section 75 claim and I was satisfied that Miss S had raised the claim as soon as she became aware of her consumer rights. In relation to Creation's point about inspection of the sofa, I said that there had already been an independent inspection which had concluded that there was a fault and that the mechanism needed to be replaced. I said that once it had become clear that the parts weren't available to carry out the repair, I didn't think it was unreasonable for Miss S to dispose of the sofa.

I invited both parties to let me have any further evidence or arguments they wished to raise.

Miss S replied and said she would like me to consider a distress and inconvenient payment. She said that Creation had rejected her complaint without considering all of the information

and left her in a position where she had to purchase another sofa on finance.

Creation didn't respond to my provisional 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.

I've thought about the points Miss S has made and I've reviewed the information about how Creation handled her claim. It's fair to say that Creation didn't give the independent inspection report the weight that it should have done when considering whether there was a fault with the sofa and whether there was a breach of contract for the purpose of section 75. This has caused delay in Miss S achieving a resolution to her claim. So I'm persuaded that it's reasonable to ask Creation to pay compensation for the distress and inconvenience caused to Miss S as a result of the way it handled her claim.

In all other respects I see no reason to reach a different conclusion to that which I reached in my provisional decision.

Putting things right

To put things right Creation Consumer Finance Limited must:

End the agreement with nothing further to pay

Refund the deposit of £200

Refund all payments made under the agreement since May 2022

Pay 8% simple interest on all amounts refunded calculated from the date of payment to the date of settlement

Pay compensation of £75 for distress and inconvenience

My final decision

My final decision is that I uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 7 December 2023.

Emma Davy
Ombudsman