

## **The complaint**

Miss C is unhappy with the response of Creation Consumer Finance Ltd (Creation) following a complaint she made

## **What happened**

Miss C bought a car in October 2022 which she paid for using finance provided by Creation. Unfortunately, she had the car for 4 days, when it was stolen.

Miss C claimed under her car insurance, and was offered a total loss settlement, which covered the outstanding finance. As the car was stolen so quickly after purchase, Creation agreed to honour the “right to withdraw” settlement figure, which was £207.96 less than the total loss settlement. Miss C supplied documentation from her insurer confirming they were happy for the overpayment to go directly to Miss C, but she did not receive any payment.

Miss C complained to Creation in December 2022, but Creation didn’t deal with her complaint within the 8 weeks allowed.

As Miss C was unhappy, she brought her case to this service. Our investigator reviewed the case and concluded that Creation should refund Miss C the £207.96 plus 8 % from 15 November 2022 to the date of payment, and £150 for the trouble and upset caused.

Miss C accepted the investigator’s view. Creation also accepted but said that the £207.96 had been refunded in February 2023, so it would only pay interest to that point. Miss C accepted the shorter period for interest but asked for confirmation that the amount had been paid, as she couldn’t find any record of the payment on her bank account.

As Creation did not respond, the case was moved for a decision, with the investigator recommending an increase to £250 for the trouble and upset caused by the ongoing delays, and lack of communication. Creation then supplied the requested proof and later agreed to the higher award recommended. As Miss C had accepted the outcome, the case was closed.

Miss C got back in touch because she had not received any payment from Creation. The case was re-opened and again passed for a decision. In consideration of the further failings of Creation, the investigator increased the award for trouble and upset caused by the lack of communication and delays to £400. Nothing further has been received from Creation.

As Miss C’s complaint remains unresolved, the complaint has been passed to me to review.

## **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.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law, and, where appropriate, what would have been considered good industry practice at the relevant time.

There is no dispute here about whether Miss C should be paid the £207.96, this was agreed in November 2022. And Creation has agreed that interest at 8 % should be paid from 15 November 2022 to the date the payment was made (now established as 28 February 2023). Creation has also previously accepted that its lack of communication and delays around the payment would have caused Miss C avoidable distress and that a payment in recognition of this is warranted. However, we are now over a year from the initial complaint, and the matter remains unresolved.

Like the investigator, I consider that Creation's lack of clarity around whether the payment was made or where to, was not treating Miss C fairly. And the continuing failure to pay the interest it had agreed to, and the failure to pay the award for trouble and upset, once the outcome was agreed was also unfair and caused Miss C further avoidable upset. It follows therefore that I agree with the investigator that Creation should pay Miss C the outstanding interest and an award totalling £400 for the lack of communication and ongoing delays in payment.

I would remind Creation that in the event Miss C accepts this decision, we expect payment to be made within 4 weeks of the acceptance.

### **My final decision**

My final decision is to uphold Miss C complaint. In full and final settlement of it, Creation Finance Ltd must;

- Calculate and pay Miss C 8% interest on the £207.96 from 15 November to 28 February 2023. It should also let Miss C know when that has been done.
- Pay Miss C a total of £400 for the trouble and upset caused. Again, it must let Miss C know when this has been done.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 16 February 2024.

Sarah Holmes  
**Ombudsman**