

The complaint

Mrs K complains about Creation Consumer Finance Ltd's response to her claim under section 75 of the Consumer Credit Act 1974 about the installation of some windows.

What happened

In March 2017 Mrs K paid a third party ("the merchant") to supply and install some windows at her home. The cash price was £13,815. She paid a deposit, and the balance was financed by a regulated fixed-sum loan from Creation. Shortly afterwards, in May 2017, she complained to the merchant that the windows had been fitted without insulation, and the wrong doors had been supplied and fitted. The merchant made several attempts to put things right, but these were unsuccessful as its engineers brought the wrong parts with them. When matters were not resolved to her satisfaction, Mrs K approached Creation in February 2020 and asked it to help.

Creation took three years to deal with the matter, partly because it was being dealt with by its insurer. It finally sent Mrs K its final response in February 2023. It told Mrs K that its insurer had offered her £12,167 towards remedial work, as its policy capped liability at the cost of her purchase, and some money had already been spent on a modest amount of remedial work by a third party company instructed by the insurer. Creation also offered to pay her a further £4,918:16 (by deducting it from the outstanding balance of her loan) for her distress.

Being dissatisfied with that offer, Mrs K asked our service to review this matter. She said that not only had the long delay caused her a great deal of stress, but also her physical health had suffered as a result of draughts, damp, and mould spores which had exacerbated her asthma. She had also had to replace the window locks, because they had not locked properly, and so she had felt unsafe.

Our investigator upheld this complaint. She thought that much of the delay could have been avoided if Creation had taken ownership of Mrs K's case itself, instead of delegating it to its insurer. She pointed out that the insurance policy limit did not cap Creation's liability under section 75. She recommended that Creation pay to have all of the windows and doors properly installed, and have any consequential damage (including a leak) repaired at no cost to Mrs K. (The quoted cost came to £14,900 plus VAT, plus another £3,120 without VAT.) The investigator also thought that Creation should pay some compensation for Mrs K's distress caused by the delays. Taking into account that some delay would still have been caused by the covid pandemic, and that Creation hadn't known about Mrs K's asthma, she initially thought that £400 would be fair compensation, but she later revised this up to £1,000.

Creation accepted those recommendations, but Mrs K said the proposed compensation was not enough to reflect what she had been put through. She said that her energy bills had increased as a result of the lack of insulation. She had spent hundreds of hours dealing with this matter. Her health had suffered. (She added that she had not signed anything to state that the work was complete and to authorise Creation to pay the merchant; the investigator said that the money had been due on the supply of the doors and windows, not on

completion of their installation.) Mrs K asked for an ombudsman to review her case. She asked for £9,000 compensation, and for the interest on the loan to be written off.

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.

It is not in dispute that the work carried out by the merchant was not carried out with reasonable skill and care, and that Creation is liable for this breach of contract under section 75. The quotes I mentioned above are now out of date, but I think it is fair to require Creation to arrange for the necessary remedial work to be carried out at no cost to Mrs K. The quotes (three quotes from two companies) clearly set out what remedial work is required, and a suitable company to carry out the work has been identified. So it only remains for me to decide how much additional compensation would be fair to make up for Mrs K's distress and inconvenience.

I agree with the investigator that much of the delay could have been avoided, for the reasons she set out in her opinion. Some of the delay was not Creation's fault; for example, the pandemic would still have caused some delay, and then when Creation agreed to cover the costs in the quotes, Mrs K went travelling (with good reason, to be fair) and the quotes expired while she was away. Nevertheless, a great deal of time was wasted through no fault of hers, and it has now been seven years since the installation (although I cannot hold Creation responsible for the first three years of that). That must have been an unpleasant time, due to the effects of the lack of effective insulation. I have seen no medical evidence, so I cannot say whether her asthma has got worse, and I have seen no photos of the mould, so I don't know how extensive it is. But I can still reasonably infer from what she has credibly told us that the ongoing problem would certainly have taken an emotional toll on her. She has described the cold, her fear of break-ins, and the fact that she cannot invite guests to her home because of the mould. She is now in her sixties.

Taking all of that into account, I think that £9,000 is far too much, but £1,000 is not enough. I currently think that £2,000 would be fairer compensation for Mrs K's inconvenience.

So my provisional decision is that I intend to uphold this complaint.

Putting things right

Creation accepted my provisional decision. Mrs K did not reply to it. So there is no reason for me to depart from my provisional findings, and I confirm them here.

In its response, Creation said that its insurer would pay Mrs K £12,767, and Creation would pay the rest. I think the correct figure is actually £12,167 (that is, £13,815 minus £1,648).

(Just in case there are any difficulties involving the insurer, I will order Creation to pay any amount which the insurer fails to pay.)

My final decision

My decision is that I uphold this complaint. I order Creation Consumer Finance Ltd to:

- Arrange for the necessary remedial work to be carried out at no cost to Mrs K, within a reasonable period of time and on a date agreeable to her (it is acceptable for the insurer to contribute to this, but Creation must pay for any shortfall); and

- Pay Mrs K £2,000 for her inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 15 October 2024.

Richard Wood
Ombudsman