

The complaint

Mrs C complains Homestyle Windows Ltd (Homestyle) pressured her into buying windows from them and didn't cancel her order within the cooling off period despite her request. This resulted in them making windows she didn't want and arranging a fixed sum loan agreement to pay for them.

What happened

In early January 2023, an agent from Homestyle visited Mrs C's home, and during this visit, Mrs C ordered windows and paid a £2,000 deposit towards them. The agent also arranged a fixed sum loan agreement (that would be administered by a different business) for the remaining balance of the windows.

Two days after the order was placed, Mrs C wrote to Homestyle and explained she wanted to cancel her order. Her letter included a cancellation form from Homestyle which asked for feedback on the reasons for the cancellation, and Mrs C wrote, "*I was really only looking for a quote at this stage.*" Mrs C also wrote to Homestyle chasing the cancellation and refund of her deposit on two further occasions over the next 5-day period.

Homestyle emailed Mrs C and asked to speak with her over the phone, and following a call with her, they visited her home again on 24 January 2023. During this visit, the agent reduced the price of the windows by £1,000 and arranged for £1,000 of the £2,000 deposit Mrs C had previously paid to be refunded to her. They also amended the details of the fixed sum loan agreement to reflect the new price of the windows.

Around a week later, a surveyor visited Mrs C's home to take measurements and customisation details for the windows she'd ordered. Mrs C allowed the agent into her home to do this and provided details of the customisations.

In March 2023, Homestyle wrote to Mrs C asking to arrange a time to install her windows. Each time, Mrs C said she didn't need the windows for a number of months and said she would contact them when she knew she wanted the windows installed. However, in June 2023, Mrs C wrote to Homestyle and complained she'd been pressured into buying the windows due to Homestyle's "*aggressive sales practices.*" Because of this, she felt she should be able to cancel her order.

Homestyle Windows investigated Mrs C's complaint and issued their final response. In this, they explained they weren't upholding her complaint because she hadn't cancelled within the 7-day period allowed under her agreement. Homestyle acknowledged Mrs C's first contract had been cancelled in time but following a call and visit from a manager in late January 2023, Mrs C had accepted their offer of a lower price. They also explained that Mrs C had allowed a surveyor to collate the information needed to make her windows, and despite their efforts to arrange a time to install the windows, Mrs C hadn't confirmed her availability.

Homestyle explained that Mrs C's order couldn't be cancelled because they'd incurred costs. So, if the windows weren't installed within 7 days of their final response, Mrs C would need

to pay 75% of the cost of the windows. Mrs C was unhappy with this final response letter and wrote to Homestyle again reiterating why she was unhappy.

Homestyle responded maintaining their position that the order couldn't be cancelled. However, they put forward the following options for Mrs C:

- Accept the installation and continue with the finance package she had agreed to.
- Not have installation for up to three months but pay 75% of the contract value.
- Completely cancel the order, but a total of around £7,000 would need to be paid.

Mrs C remained unhappy with Homestyle, so brought her complaint to our service. Our Investigator looked into what had happened and didn't think Mrs C's complaint should be upheld. He explained the signed paperwork demonstrated Mrs C had accepted the price reduction at the end of January 2023. Also, he couldn't see that she had attempted to cancel the order after January 2023 until her complaint letter in June 2023.

Mrs C disagreed with our Investigator, so her complaint was passed to me for a decision.

I issued my provisional decision on 6 September 2024, and in this I explained I was minded to uphold Mrs C's complaint because I didn't consider Homestyle had treated her fairly.

Both parties had until 20 September 2024 to provide any further comments and/or evidence they wanted me to consider. Mrs C accepted my provisional decision, and Homestyle didn't respond by the deadline. As such, my decision remains the same.

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.

Having considered everything provided by both parties, I'm upholding Mrs C's complaint. I'll explain my reasons below.

Mrs C has complained that Homestyle used aggressive sales practices when selling her windows. Because of this, she felt pressured into buying them and taking out a credit agreement to pay for them.

Given the sales took place in Mrs C's home, there is limited evidence that show what was explicitly discussed with her – and how things were discussed with Mrs C. So, I've had to base my decision on the paperwork that was created at the time – this includes the signed agreements and written correspondence between Mrs C and Homestyle. And having reviewed this information, I don't consider Homestyle treated Mrs C fairly.

The first order for windows was placed on 10 January 2023 in Mrs C's home. However, the evidence provided by both parties shows that Mrs C wrote to Homestyle on 12 January 2023 asking to cancel her order. So, I've had to consider if Mrs C cancelled her order in line with the relevant terms and conditions.

Having reviewed the paperwork signed by Mrs C on 10 January 2023, I've seen the terms and conditions say:

“15. You have the right to cancel this contract within 7 days without giving any reason. The cancellation period will expire after 7 days from the day on which you signed the contract with Homestyle Windows Limited. To exercise the right to cancel, you must inform us, Homestyle Windows Limited (50 Salisbury Road....) of your decision to cancel this contract

by a clear statement (e.g. a letter sent by post or email). You may use the attached model cancellation form, but it is not obligatory. We will not be able to accept any form of verbal communication.”

When Mrs C wrote to Homestyle on 12 January 2023, she included their cancellation form. The form said *“This information is voluntary and you do not have to provide it. However, we would appreciate your feedback on your reason(s) for cancelling the contract.”* And under this, Mrs C wrote, *“I was really only looking for a quote at this stage.”* Considering this, I’m satisfied Mrs C not only took steps to cancel her order in line with the terms and conditions, but she also provided them with more information than she was obligated to when cancelling.

Mrs C also emailed Homestyle on 14 and 16 January 2023 confirming she wanted to cancel her order and requested a refund of her deposit. So, taking everything into account I consider Homestyle had more than enough information to action Mrs C’s cancellation request before the 7-day cooling off period ended.

Given the above, I can’t agree that it was reasonable for Homestyle to email Mrs C on 14 January 2023 asking to speak with her over the phone about her cancellation. The terms and conditions she agreed to said Homestyle can’t accept cancellation by verbal communication. And given Mrs C’s cancellation form explained why she wanted to cancel (when she didn’t have to provide this information), the only rational conclusion I can reach regarding Homestyle’s decision to call Mrs C and later visit her home, was because they wanted to change her mind about cancelling her order. And this adds weight to Mrs C’s testimony about her feeling pressured into placing the first order on 10 January 2023, and her agreeing to the order at a reduced price when a manger from Homestyle visited her home on 24 January 2023.

In determining what’s fair and reasonable in this case, I’ve considered what was expected of Homestyle under The Consumer Protection from Unfair Trading Regulations 2008 (CPTUR). These regulations prohibit unfair commercial practices, and they explain that a commercial practice can be deemed unfair if it’s “aggressive”. When talking about aggressive commercial practices, the regulations say:

“Aggressive commercial practices

7.— (1) A commercial practice is aggressive if, in its factual context, taking account of all of its features and circumstances—

(a) it significantly impairs or is likely significantly to impair the average consumer’s freedom of choice or conduct in relation to the product concerned through the use of harassment, coercion or undue influence; and

(b) it thereby causes or is likely to cause him to take a transactional decision he would not have taken otherwise.

(2) In determining whether a commercial practice uses harassment, coercion or undue influence account shall be taken of—

(a) its timing, location, nature or persistence;

(b) the use of threatening or abusive language or behaviour;

(c) the exploitation by the trader of any specific misfortune or circumstance of such gravity as to impair the consumer’s judgment, of which the trader is aware, to influence the consumer’s decision with regard to the product;

(d) any onerous or disproportionate non-contractual barrier imposed by the trader where a consumer wishes to exercise rights under the contract, including rights to terminate a contract or to switch to another product or another trader; and

(e) any threat to take any action which cannot legally be taken.

(3) In this regulation—

(a) “coercion” includes the use of physical force; and

(b) “undue influence” means exploiting a position of power in relation to the consumer so as to apply pressure, even without using or threatening to use physical force, in a way which significantly limits the consumer’s ability to make an informed decision.”

CPTUR also has a section entitled, “*SCHEDULE 1 Commercial practices which are in all circumstances considered unfair*”. This gives the following example:

“26. Making persistent an unwanted solicitation by telephone, fax, email or other remote media except in circumstances and to the extent justified to enforce a contractual obligation.”

In the specific circumstances of this complaint, I consider Homestyle’s actions following receipt of Mrs C’s 12 January 2023 cancellation could be deemed unfair and aggressive within the remit of CPTUR. I say this because there was no justified reason for them asking to speak with Mrs C about her cancellation when you consider what is said within the terms and conditions. And had they not insisted on speaking with her, and later visited her home, Mrs C wouldn’t have agreed to ordering the windows at a reduced price after previously explaining to them she only wanted a quote. As such, it wouldn’t have resulted in Mrs C taking a transactional decision she wouldn’t have otherwise taken i.e., agreed to the reduced price on 24 January 2023.

Given the way things unfolded, I am persuaded by Mrs C’s testimony when she said she felt pressured into agreeing to the windows when agents from Homestyle were in her home. This is because they didn’t acknowledge her position when she wrote to them on 3 separate occasions. So, I can also understand why she may have allowed the surveyor into her home and tried to delay installation of the windows for as long as possible before seeking advice on her options.

In light of the above, while I accept Mrs C didn’t cancel her order within 7 days of the 24 January 2023 agreement, I don’t consider that means her complaint shouldn’t be upheld. Had Homestyle properly actioned her 12 January 2023 cancellation request, the 24 January 2023 order never would have come about. I appreciate Homestyle have now incurred costs as a result of this. However, but for their actions in mid-January 2023, this wouldn’t have happened. In turn, I don’t think it would be fair to hold Mrs C responsible for these costs.

The terms and conditions of the agreement say that if a cancellation request is received, payments will be reimbursed. I’m aware Homestyle has already refunded £1,000 of the initial £2,000 deposit paid by Mrs C. This means there’s an outstanding amount of £1,000 that still needs to be refunded to Mrs C to resolve her complaint.

I do appreciate what Mrs C has said about how this experience has made her feel, and why she didn’t complain about things for some five months. However, I have to be fair to both parties and acknowledge that while Mrs C didn’t want agents from Homestyle to visit her home again, she could have sought advice about her options sooner than she did. Had she

done so, Homestyle wouldn't have incurred the level of costs they have in storing the windows she doesn't want, for the period of time they have. It's for that reason I'm not making an award for distress and inconvenience in this complaint.

For the reasons detailed above, I'm upholding Mrs C's complaint.

My final decision

My final decision is that I'm upholding Mrs C's complaint about Homestyle Windows Ltd.

To put things right, Homestyle Windows Ltd should refund Mrs C's £1,000 deposit.

Homestyle Windows Ltd should also pay interest at 8% per year simple, from date they made the partial refund of the deposit until the remaining £1,000 is refunded.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 21 October 2024.

Sarrah Turay
Ombudsman