

The complaint and what happened

Mrs G complained that Creation Consumer Finance Ltd failed to pay out on a claim she made to it about the quality of the installation of a solar panel system she purchased with credit it provided.

I've included relevant sections of my provisional decision from October 2024, which form part of this final decision. In my provisional decision I set out the reasons why I wasn't planning to uphold this complaint. In brief that was because I thought that it had been brought too late for me to require Creation to respond to a claim under Section 75 of the Consumer Credit Act.

I asked both parties to let me have any more information they wanted me to consider. Creation accepted my findings.

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 done so, I'm not upholding it, and I'll reiterate why, but first I've included here the relevant sections of my provisional decision:

“What happened

In April 2015 Mrs G bought a solar panel system from an installer which brokered a credit agreement for her with Creation to pay for it.

In early 2023 Mrs G was made aware of problems with how the panels had been installed when a different tradesperson went onto her roof to carry out work. She paid for the panels to be made good. As the installer was no longer trading at this point, Mrs G made a claim to Creation for the cost of the remediation work. It said that as the panels had been in place for nearly eight years, Mrs G had brought her claim too late and it didn't need to consider paying it.

Our investigator considered how Creation had acted in light of its responsibilities under Section 75 of the Consumer Credit Act 1974 ('Section 75'). He said that it was fair for Creation to decline Mrs G's claim by relying on something called the Limitation Act 1980. However, he thought he could consider Mrs G's complaint under a different section of the Consumer Credit Act 1974, and that she would have a successful claim against Creation on that basis.

Creation doesn't accept that and asked an Ombudsman to look into things.

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.

Section 75 enables Mrs G to make a claim against Creation for breach of contract or

misrepresentation by the supplier of the solar panel system. I'm satisfied that the necessary relationships are in place for her to be able to make a claim under Section 75. However, Creation's stance is that any claim Mrs G had against the solar panels supplier is now time barred. Whilst it hasn't cited it, the Limitation Act 1980 is relevant here. That Act contains provisions that say a cause of action, of the types complained about here, shall not be brought after the expiration of six years from the date on which the cause of action accrued. Mrs G's complaint is about the installation of the system in April 2015, meaning the latest she could have raised a claim about it was April 2021. That applies even if Mrs G wasn't aware that anything had gone wrong with the installation until 2023.

Having considered the specific circumstances here, it is likely that any claim in court that Mrs G would have against the solar panel provider would be considered to have been made out of time, in relation to the alleged breach of contract. And consequently, any 'like claim' Mrs G may have had against Creation would also be considered out of time. Having considered the implications of the Limitations Act 1980 alongside Section 75, I don't consider Creation acted unreasonably when deciding Mrs G's claim had been raised too late.

The investigator thought that we could look at Mrs G's complaint under S.140 of the Consumer Credit Act, which is about whether the relationship between her and Creation was or is unfair. And he thought it was, due to her expectations about the installation of the panels effectively forming the basis of her relationship with it. So he thought that Creation ought to recompense her.

Creation objected to that, highlighting that Mrs G had never made mention of any concerns about her ongoing relationship with it, which lasted until 2020, and that being unfair. She only cited the quality of the installation in 2015 as being the basis of her complaint.

Of course, I would not expect Mrs G, as an unrepresented consumer, to know about the provisions of the Consumer Credit Act 1974 and mention particular sections of it when telling us about her concerns. So, it will sometimes be entirely right for me to infer that someone is complaining about a relationship between them and a lender, and that S.140 therefore comes into play. But I don't think that would be fair and reasonable in this case. Mrs G had only ever expressed her concerns about the quality of the installation in 2015, which could amount to a breach of contract as per Section 75. But I don't think it would be right for me to construe her concerns as being about her ongoing relationship with Creation.

All of which means that I don't think there is a complaint about S.140 of the Consumer Credit Act 1974 here, and that it was not unfair or unreasonable of Creation to refuse to pay Mrs G's claim under Section 75, bearing in mind the provisions of the Limitation Act 1980."

As mentioned above, neither party to this dispute has provided any substantive further evidence or comments following my provisional decision. Therefore I have seen nothing which alters my findings as set out therein. And so it follows that I don't uphold this complaint.

My final decision

For the reasons I've explained, I don't uphold this complaint and Creation Consumer Finance Ltd doesn't need to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs G to accept or reject my decision before 10 December 2024.

Siobhan McBride
Ombudsman