

The complaint

Mr T has complained about an installation for doors he paid for using a fixed sum loan agreement with Mitsubishi HC Capital UK PLC trading as Novuna Personal Finance ("MHCC").

What happened

The circumstances are well known to both parties, so I'm not going to go over everything again in detail. But, to summarise, in September 2023 Mr T entered into an interest free fixed sum loan agreement with MHCC to pay for two doors from a supplier I'll call "S". The cash price was £3,457. Mr T paid a £1,729 deposit and borrowed £1,728 to be paid back with 24 instalments of £72.

Mr T put in a claim with MHCC, in summary, in relation to:

- *Pressure selling by S.* Mr T said S insisted he sign on the day or the 'deal' would be lost. He said he was initially quoted between £4,000 to £5,000 for the supply and install of composite doors. S offered him a price of around £3,500 if he agreed on the day and paid a sizeable deposit, which he did.
- *Misrepresentation.* Mr T subsequently found out the doors were UPVC and not composite. He said the sales contract didn't reference UPVC or composite, so he wasn't to know he'd been misled.
- *Breach of contract.* Mr T said the type of doors weren't fit for purpose and there were problems with the way they were installed.
- *Price.* Mr T said S charged an inflated price for what he received.
- *Compensation.* Mr T requested compensation.

An independent report was arranged in December 2023 which broadly concluded issues raised by Mr T were founded and remedial works were required. It said some defects were noted due to poor manufacture while others were as a result of lack of due care and skill during installation.

MHCC also arranged a report that set out there were issues. MHCC responded in April 2024 to say it would be happy to authorise the remedial work, but it would only authorise a like for like replacement i.e., UPVC and not a composite replacement. As Mr T wanted a composite door MHCC said it was unable to take the claim further. MHCC said without evidence Mr T had ordered a composite door or raised the issue with S it wouldn't do more.

Mr T decided to refer his complaint to our service. He said he had to suffer the winter in a worse state than before the doors had been replaced, making heating efforts more costly. He said he'd spent time trying to make MHCC understand what happened. He said to resolve matters he'd be happy for MHCC to replace the doors with composite doors along with compensation. Otherwise, he asked for a full refund with rescission of the contract along with compensation.

Our investigator thought that Mr T likely did make it clear to S he wanted composite doors. So she thought MHCC should arrange to replace the doors with composite ones.

MHCC ultimately agreed and the complaint was initially resolved on that basis. But Mr T wanted to pursue his claim for compensation and consequential losses. He said damages should be reflective of the additional heating costs incurred as a result of the doors not fitting correctly, as well as the inordinate amount of time, stress and worry inflicted by the situation. He said it caused significant disruption and made medical problems worse. He also reiterated previous points he'd raised about the unfair practices and the impact on him.

Mr T continued to speak to MHCC about his claim. And I understand it agreed to compensate him £250 for the distress and inconvenience. It said it couldn't see evidence Mr T's heating bills increased as a result of the doors. Mr T didn't think the offer was acceptable, but our investigator didn't make any further recommendations.

Some further issues also arose after the installation of the new doors to do with the accreditation certificates for them; a door limiter not being included; and further faults.

The complaint has been passed to me to decide.

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 want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr T and MHCC that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

I'm required to decide the complaint quickly and informally by deciding what I think is fair and reasonable. In considering what is fair and reasonable I need to take into account the law; regulators' rule, guidance and standards (including the Consumer Duty); codes of practice and what I consider to have been good industry practice.

Mr T paid for the doors using a fixed sum loan agreement. This is a regulated consumer credit agreement, and our service is able to consider complaints relating to these sorts of agreements.

I take into account the relevant law. So, in this case, section 75 of the Consumer Credit Act 1974 ("CCA") makes MHCC responsible for a breach of contract or misrepresentation by the supplier under certain conditions. I think the necessary relationships between the parties exists and the claim is within the relevant financial limits. Moreover, section 56 of the CCA has the effect of deeming S to be the agent of MHCC in any antecedent negotiations.

The Consumer Rights Act 2015 (CRA) is also relevant to this complaint. The CRA implies terms into the contract that traders must perform the service with reasonable care and skill. And that services should be performed within a reasonable amount of time. The CRA implies terms into the contract that goods supplied will be of satisfactory quality. The CRA also sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met.

I want to note that I'm not considering a complaint against S. I'm considering a complaint against MHCC. So I have to consider MHCC's obligations as a provider of financial services – in this case its liability for breach of contract or misrepresentation under section 75.

I also want to set out that I'm primarily required to consider what happened up to when MHCC sent its final response letter as the events preceding this relate to what it has had the chance to consider. Things moved on from then, so I've tried to be as pragmatic as possible when dealing with this complaint when thinking about what parts I can decide. But I need to be able to draw a line under the complaint with this final decision because this marks the end of our process. If there are further complaints about events that occurred after the final response letter that are not clearly included within this decision, they would have to be taken up separately.

Mis-sale of the doors

I'm conscious the doors have now been replaced. So this part of the complaint has broadly been resolved. Mr T made several allegations and has referred to several unfair practices carried out by S. I agree Mr T has been consistent and convincing in his testimony. But I think it should be noted that it seems as though S went into administration before MHCC considered the claim. So it wouldn't have been straight-forward for MHCC to find out what S had to say about Mr T's allegations. This would have made it much more difficult for MHCC to investigate and reach firm conclusions when deciding the claim.

The Consumer Protection from Unfair Trading Regulations 2008 ("CPUTR") that Mr T has referred to several times sets out, amongst other things, what would be considered unfair practices by traders such as misleading actions or omissions. But the regulations don't set out direct rights for consumers affected by breaches of them, unlike the CRA which is also relevant here. It's not my role to say what laws have or haven't been broken. Nor is it my role to penalise or fine businesses. I am, however, required to take the law, such as the CPUTR and the CRA into account when deciding what's fair and reasonable in all the circumstances of the complaint.

Mr T has alleged S put pressure on him to sign up on the day, which could be considered an unfair practice. But the contract he entered into had a cancellation period if he was unhappy with the deal on reflection. He's also alleged S switched the product under the contract, and that he'd effectively paid a composite price for a UPVC door. The contract doesn't set out the door was composite (or UPVC). MHCC has indicated the door range referred to in the contract was for UPVC doors. And I've not seen enough to know the price he paid wasn't correct for the doors that were installed. I appreciate Mr T is saying the price was higher than he would have paid for those sorts of doors and that they were therefore overpriced. But I don't have sufficient evidence to demonstrate that. Moreover, the price of an item is excluded from assessment of fairness of a contract term under the CRA.

The evidence here is incomplete. If I found the goods and/or service was misrepresented, the usual remedy would be to put Mr T in the position he'd have been in had the misrepresentation not happened – which, based on what he's said, would've been to have the doors removed and a refund given. But given the doors have now been replaced with the sort of door Mr T was seeking, to the extent they could be, I don't think I need to undertake a detailed analysis of what was or wasn't likely said to make further findings on what went wrong with the sale. I need to decide the complaint quickly and informally and think about how MHCC handled the claim based on what was presented to it.

Breach of contract

Given the reports that were completed, it doesn't seem to be in dispute there was a breach of contract because either the doors weren't installed with reasonable care and skill, or the goods weren't of satisfactory quality. MHCC initially offered to replace like for like, which is a remedy available under the CRA for those sorts of situations, so I don't think that was unfair. But I appreciate it didn't work for Mr T because he wanted the composite doors he said he was sold.

With regards to the fit for purpose claim, which was raised because Mr T said he needed particular doors to help with heating efforts, again it's difficult to conclude what was spoken and it's not clear it would be possible to hear from S. But given the doors have now been replaced and that I need to resolve the complaint quickly and informally, again, I don't think I need to undertake a detailed assessment of what likely happened because I don't think it would lead to a substantially different outcome.

Replacement door remedy

MHCC has now arranged replacement of the doors. Without knowing Mr T paid the price for composite doors under the original contract I do have to consider that Mr T may have, and I think likely did, achieve some form of enrichment here if the doors he's now had installed are worth more than the ones paid for under the contract. But, again, the evidence is incomplete, so it's hard to reach firm conclusions. In any event, aside from the more recent issues which I'll come onto later, Mr T seemed broadly happy with the type of doors that are now installed. His claim is mostly in relation to compensation and consequential losses. So I'll go on to think about that now.

Consequential losses

Mr T has said he's lost out by having to pay higher heating costs through having inferior doors installed. I carried out some crude calculations looking at a few winter months' bills from around the same period in 2023 (before the installation) and 2024 (after the installation). I couldn't see any notable difference by way of increased energy usage by looking at the overall kWh of electricity consumption and units of gas used. The calculations I ran indicate the usage went down slightly. I appreciate Mr T likely thinks the usage should have gone down by more considering he was improving the doors. But it's not clear there's been a financial loss and if there was, it would be very difficult to calculate even if I were to find MHCC was liable to pay it. On balance, I'm not making an award in relation to consequential losses.

Compensation

It's important to note that under section 75 compensation for distress and inconvenience caused by S is limited with this type of complaint. I appreciate Mr T is very upset about what's happened and he's been put to inconvenience with having various return visits. He's also highlighted the severe impact on him and his family as a result of what he said went wrong. But I have to consider what MHCC can be held liable for – which is the like claim Mr T would have in court against S for breach of contract or misrepresentation. Courts do consider what's known as general damages. But damages aren't generally recoverable for distress or inconvenience. Awards in building cases where there's been a breach of contract which caused the claimant physical distress or discomfort can be made, but they tend to be modest. While I appreciate he doesn't agree, I don't think the nature of the issues caused the physical inconvenience or discomfort that would give me the grounds to direct MHCC to pay the sort of compensation that I think Mr T is seeking.

Moreover, it's also important to note I'm unable to make an award for loss of amenity so if Mr T is looking to pursue this aspect of the complaint, he may wish to seek independent legal advice because I can't cover it in a decision. It's not within my power to award.

It's also important for me to differentiate the compensation Mr T is seeking for problems as a direct result of the goods and service provided by S, and the way MHCC handled a claim. I don't think there are grounds to direct MHCC to pay the sort of compensation Mr T is seeking for distress or inconvenience under its section 75 liability. But I can consider how MHCC handled the claim overall. As I said above, I'm primarily required to consider what happened up to when MHCC sent its final response letter. If I uphold a complaint, I can make a money award for compensation such as distress and inconvenience.

I appreciate Mr T strongly disagreed with MHCC's answer to the claim. But allegations of what was or wasn't said are hard to evidence for obvious reasons. The evidence was inconclusive, and just because MHCC came to an answer he wasn't happy with (or that our investigator didn't agree with) doesn't automatically mean it should pay compensation for deciding to come to that answer. MHCC has offered £250, albeit more recently. MHCC said the claim was raised at the end of November 2023 and Mr T provided a report in January 2024. It arranged its own report and gave its outcome in April 2024. It could have dealt with things a bit sooner to give Mr T an answer. While it may not have been the answer he wanted, at least he could have looked at his options sooner.

As it turned out, primarily during the course of our investigation, Mr T decided to spend a lot of time researching matters and putting his submissions together. There's always a level of inconvenience caused when raising a complaint. Moreover, as I said, compensation isn't automatically awarded for every complaint that's been upheld. MHCC had set out its position on the claim and complaint. Our role is to consider how MHCC responded based on what Mr T submitted at the time, that led to the final response. Mr T decided to spend further time putting detailed submissions together primarily when dealing with the Financial Ombudsman, after the final response was sent, but I don't think I can fairly direct MHCC to pay compensation for that. Moreover, as I've said above, Mr T may have received some form of enrichment by having the replacement doors provided. MHCC has also offered £250 compensation. In the round, I think that's fair. I don't find have the grounds to direct MHCC to pay Mr T the sort of compensation he's seeking. I therefore don't consider a further award is necessary.

Further issues

There are a few side issues that came up through the course of the investigation. I've set out below what I think I can deal with here, and what I'm not going to deal with.

Mr T has complained a door limiter wasn't fitted. MHCC said a door limiter wasn't included within the original contract, or claim. I can't see a limiter was present on the contract, so I don't have the grounds to say there's a breach of contract in relation to that. And I'm therefore not going to direct MHCC to cover the cost of one.

I understand the installers of the new doors use a different accreditation scheme to S. I've not seen any detriment as a result of that, so I don't think MHCC needs to take any further action.

More recently Mr T has provided photos and videos of something he's unhappy about with the new door in relation to a gap. I'm not an expert in door installation, and the evidence he sent in isn't conclusive. As I've said, I need to be able to draw a line under the complaint. We can't keep the complaint open to be able to deal with any issues through the lifetime of the door. I've dealt with post-final response letter issues as best, and as fairly as I can. If there are any new issues with the doors that Mr T thinks are as a result of a breach of contract because they weren't installed properly or from the goods not being of satisfactory quality, I'm afraid this would have to be dealt with separately. For the avoidance of doubt, I make no findings on that within this decision. But I'd expect MHCC to assist him where appropriate.

I did however reach out to the parties to say that I thought it would be fair Mr T was reimbursed the cost of the report he arranged (if he paid for it) because there was a breach of contract. MHCC made a point that seems fair that Mr T arranged the report without checking with it first, and that it could have arranged the inspection itself. Nevertheless, it's agreed to review the reimbursement of £395 for the report (price taken from an invoice it has). In the circumstances, I think this is fair. So if Mr T has paid up to £395 for the report himself and hasn't already been refunded, upon receipt of sufficient evidence, MHCC should also reimburse him £395.

Summary

I'm sorry to hear Mr T is unhappy. I appreciate the matter has had a significant impact on him. But I've had to decide the complaint by setting out what I think is fair and reasonable. I didn't think I had the grounds to direct MHCC to pay the sort of compensation Mr T was seeking, for the reasons given above. MHCC has offered £250 compensation; the doors have been replaced; and it's agreed to reimburse Mr T up to £395 towards the cost of the report, if necessary and evidence is supplied. I think this is fair and reasonable in all the circumstances. I make no further directions.

My final decision

My final decision is that Mitsubishi HC Capital UK PLC trading as Novuna Personal Finance should, to the extent not done so already, pay Mr T £250. It should also reimburse him up to £395 towards the cost of the report he arranged if he provides evidence he's paid for it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 23 April 2025.

Simon Wingfield

Ombudsman