

The complaint

Mr H has complained about the way Mitsubishi HC Capital UK PLC trading as Novuna Personal Finance ("MHCC") dealt with claims he'd made under section 75 of the Consumer Credit Act 1974 ("CCA").

What happened

The circumstances of the complaint are well known to the parties, so I'm not going to go over everything again in detail. But to summarise, Mr H took out a fixed sum loan agreement with MHCC to pay for the supply of a kitchen from a supplier I'll call "S" in January 2024, for installation a few months later. The kitchen cost around £16,000 and Mr H paid a deposit of around £3,400. He was due to repay the agreement over four years with monthly payments of around £260.

In March 2024 Mr H complained to S because of a few issues. He said there were problems with the delivery; the depth of the island worktop had to be reduced by 30mm because of a design issue; and he was unhappy with the overall service from S.

After some negotiations S agreed to offer Mr H £725. It broke this down as:

£200	To acknowledge additional deliveries for missing items
£100	For loss of cooking facilities
£100	For additional visit by worktop suppliers
£125	For the repair costs to the wall damaged by the worktop suppliers
£100	In relation to the worktop design issues
£100	To acknowledge the complaint as a whole

S wrote to Mr H to say *"By accepting this payment, you agree that it is in full and final settlement of your complaint..."*. The message gave Mr H instructions on how he could claim the payment, which I understand he did.

Mr H also raised a claim under section 75 of the Consumer Credit Act 1974 with MHCC. MHCC said that as Mr H accepted S's offer it wouldn't be able to assist further. Mr H complained but MHCC didn't change its assessment.

Mr H decided to refer his complaint to the Financial Ombudsman. He said the payment from S resolved part of the complaint, but he was still unhappy with the resolution with regards to the worktop for the kitchen island. He said the kitchen was based around the island and using it is more difficult than it should be.

One of our investigators asked what Mr H was seeking to resolve the complaint and Mr H said he would be looking for further compensation because he didn't want to go through the redesign of the island.

Our investigator didn't make any recommendations. She thought S had already provided a fair remedy. Mr H didn't agree. He said he didn't accept the compensation in full and final settlement in relation to the design fault. S made an error and ignored safety standards in

designing the kitchen. The kitchen island had already been built and secured to the floor so when the worktop installer told him the worktop would need to be reduced by 30mm he was left with no choice other than to accept. He said there'd already been delays and it was causing inconvenience. He said he'd shown there was a breach of contract and the portion of compensation in relation to the design fault wasn't fair. He said there was a case for him to be fully reimbursed the cost of the island (costing at least £3,500). He said he couldn't use the island as intended.

As things weren't resolved 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 also 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 H 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.

Mr H paid for the kitchen 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 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.

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.

It's important to note that I'm not considering a complaint against S. I'm considering a complaint against MHCC, and I'm looking at how it responded based on the evidence presented. 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.

It doesn't seem to be in dispute there was a breach of contract. I think the main thing left in dispute is Mr H is unhappy with compensation in relation to the size of the island. He said it's smaller than what was agreed by 30mm and he's not able to use it as intended. S's worktop installers said they'd told S previously about the safety standards for overhangs on islands. This meant Mr H had to reduce the depth of the island from 900mm by approximately 30mm to comply. Therefore, when S carried out the service of designing the kitchen I don't think it was done with reasonable skill and care, which would be a breach of contract.

S said the cost of the worktop would have been the same even if it was designed at 870mm. I don't think MHCC was supplied sufficient evidence Mr H lost out financially with regards to the slightly smaller worktop.

It's also not totally clear what would have happened had S designed the island correctly in the first place. Would Mr H have accepted the worktop if it was 30mm shallower? 30mm isn't very large in the grand scheme of things (approximately 3% of the total depth). But Mr H has indicated his kitchen was designed around the island and it's more difficult to use than it should have been. I'm sorry to hear that. Mr H has said he may have chosen not to have an island had he known. But I have to bear in mind that even though the island base was built and secured, while I appreciate his reasons for not doing so, ultimately Mr H could have refused to accept the worktop and explored other options if he wasn't willing to accept it at the depth S's worktop installers said it could safely supply. The worktop installers let Mr H know about the reduction before the worktop was installed.

I'm also conscious that, while Mr H may not agree, it does seem like S made the offer of compensation to him (with the issues in relation to the worktop included) and set out that if he were to take certain steps he'd be accepting the compensation in full and final settlement. I think MHCC fairly took that into account when deciding if it needed to do anything else.

It's also important to note that compensation for distress and inconvenience caused by S is limited with this type of complaint. I appreciate Mr H is upset about what's happened and he's been put to inconvenience. I can't imagine how he must feel. But I have to consider what MHCC can be held liable for – which is the like claim Mr H would have in court against S for breach of contract or misrepresentation. Courts do consider what's known as general damages. But damages in breach of contract cases 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 Mr H is unhappy with the island and he's told us about other issues he experienced, it's not clear the nature of the issues have caused significant physical inconvenience or discomfort. I therefore don't have the grounds to direct MHCC to pay significant compensation for this. Moreover, most of the compensation S paid Mr H was for non-financial losses. I'm not sure Mr H would have been able to claim that under a breach of contract claim in court or through a section 75 claim with MHCC. But I need to take it into account when deciding whether MHCC needs to do more. So I've thought about things holistically.

MHCC said it didn't have sufficient evidence of the consequential losses Mr H said he incurred other than his testimony. I don't think it was given clear evidence that showed the sum S paid Mr H was unfair or didn't cover the consequential losses Mr H said he incurred.

That being said, overall, I think Mr H did have fair grounds to request a price reduction. There were problems with the delivery that led to some delays. The worktop island is smaller than as set out in the contract. And the project took slightly longer to complete than expected. But given what I've said above, taking into account what I think Mr H could fairly claim through court as a result of a breach of contract; that he ultimately accepted the revised island worktop size; and he accepted the compensation from S that it had positioned as a full and final settlement offer; bearing in mind I need to resolve the complaint quickly and with minimum formality, I don't find there's grounds to direct MHCC to do more.

I should point out, Mr H is free to pursue the by other more formal means, such as through the courts if he thinks he might be able to receive a more generous outcome.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 June 2025.

Simon Wingfield
Ombudsman