

## The complaint

Miss C has complained about the way Omni Capital Retail Finance Limited (“Omni”) dealt with a claim in relation to a surgical procedure she financed through a fixed sum loan with it.

## 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, in March 2022 Miss C entered into a fixed sum loan agreement with Omni to pay for a surgical procedure from a company I’ll call “T”. The cash price was just over £6,000. Miss C paid a £1,000 deposit and was due to pay back the agreement over three years with monthly repayments of around £140.

In May 2025 Miss C referred a complaint to the Financial Ombudsman. She said she’d made a claim to Omni under section 75 of the Consumer Credit Act 1974 for breach of contract and misrepresentation. She said the claim originally arose due to complications from the procedure that may require revision surgery. She said Omni hadn’t resolved things for her and she requested a full refund with compensation.

Miss C said T sold her the package including a three-year aftercare warranty, covering further surgery if needed. She said she wasn’t given any documentation for the warranty. She said T didn’t tell her the warranty could become void if T went out of business or that it might be insured by a third party. She said when she contacted T’s insurer she was told she wasn’t insured, and that it was likely self-insured by T. She said had she been aware she would have gone elsewhere to have the procedure.

Miss C said T went into administration shortly after the procedure. She said she’d therefore lost access to the three-year aftercare service she’d paid for.

Miss C said Omni hadn’t sent her a final response letter, and that it required her to contact the insurer; pay for a consultation herself; and that it didn’t progress the claim. Further to this, Miss C said before T went into administration, she’d complained about the sale of the procedure.

Omni had said at the stage Miss C referred her complaint to the Financial Ombudsman it didn’t have sufficient evidence the original procedure was unsuccessful, so it was awaiting a review to be carried out by the original surgeon before it could reach an outcome decision.

Omni went on to issue a final response letter. Omni noted details of the procedure and that Miss C had paid around £360 for an extended aftercare package. It said Miss C had the procedure carried out in April 2022 and had a follow up appointment in September 2023 where it said it thought Miss C was satisfied with the review. Omni said after considering everything it couldn’t conclude T had breached or misrepresented the contract. It said until it was established revision surgery was required as a consequence of the original surgery it was unable to progress the claim further.

One of our investigators looked into things and said she thought Omni handled the claim fairly. She noted Omni was willing to consider any further evidence Miss C could obtain

which she thought was fair. She didn't think the original surgeon's more recent review correspondence detailed a misrepresentation or breach of contract had occurred.

Miss C didn't agree. She said T sold the treatment with a warranty that would allow for additional revisions if she was dissatisfied with the aesthetic outcome, and not just if it was medically necessary. She said Omni had a liability to provide her information. She said her own evidence showed she was unhappy with the results of the procedure. She said T went into administration less than a year after her surgery so her three-year warranty was cut short. She said the new clinic that had taken over T was poor and she'd been left in the position she was before surgery because she was unhappy with the results. She again requested a refund so she could pursue treatment elsewhere. She said the misrepresentation lies in the fact she wasn't given any terms by T. She reiterated Omni had acted dismissively. And she highlighted the impact on her physically and emotionally.

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 want to acknowledge that 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 want to assure Miss C and Omni 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 also want to set out that I'm very sorry to hear Miss C wasn't happy with the procedure. I can't imagine how she must feel, but I thank her for taking the time to bring her complaint. It's important to set out up front that even if the complaint was upheld, I'm unable to make an award for loss of amenity so if Miss C was looking to pursue this aspect of the complaint, she may wish to seek independent legal advice because I can't cover it in a decision. I mention this because of the nature of the claim and the impact Miss C said the treatment had on her.

I take into account the relevant law. So, in this case, section 75 of the Consumer Credit Act 1974 makes Omni 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.

It's important to note that I'm not considering a complaint against T. I'm considering a complaint against Omni, and I'm looking at how it responded based on the evidence presented. So I have to consider Omni's obligations as a provider of financial services – in this case its liability for breach of contract or misrepresentation under section 75.

While I know the thrust of Miss C's complaint relates to the aftercare, she's indicating she's not happy with the results she did achieve. So I've thought about things overall for her.

#### *Misrepresentation*

A misrepresentation occurs where a false statement is given that the other party relies on when deciding to enter into the contract.

While I know Miss C thinks a misrepresentation occurred, even if T couldn't provide all the services it promised because it went out of business, it's not clear this would be a

misrepresentation because I don't think it would have been aware it would go out of business when it sold Miss C the treatment. There's also a lack of supporting evidence for what was discussed or agreed prior to the procedure taking place, specifically with regards to what the warranty or aftercare covered. So I don't think Omni had sufficient evidence T made a false statement that induced Miss C into the contract. I've gone on to consider whether there was a breach of contract.

### *Implied terms*

Relevant legislation implies terms into the contract that traders must perform the service with reasonable care and skill. The legislation also sets out what remedies are available to consumers if statutory rights under a services contract are not met.

In cases such as this it is often complex to assess the quality of the service Miss C paid for. Results from such treatments are subject to many variables. Miss C has not provided supporting evidence such as an independent, expert opinion that sets out the treatment she paid for has not been done with reasonable care and skill as implied by the Consumer Rights Act 2015 ('CRA'). I'm mindful it is the manner in which the service was provided rather than the results of the treatment that is the crucial issue for me in considering whether there's been a breach of an implied term in relation to the service.

I'm not a surgical procedure expert, and neither is Omni. Without sufficient supporting evidence, I don't think Omni was unfair to not uphold the claim on the basis of a breach of an implied term of the contract because I've not seen enough to determine the service T offered wasn't carried out with reasonable skill and care.

### *Express terms*

I also need to consider what I think Miss C's contract with T agreed to provide in terms of treatment and aftercare so I can determine whether Omni's answer on whether there has been a breach of an express term of it was fair.

I'm conscious that there's a lack of evidence, which makes it difficult to assess. With regards to the procedure itself I can see Miss C signed a form detailing the risks of it and there wasn't a guarantee of success. So even if Miss C was unhappy with the results, I don't think Omni would be able to point towards a breach of an express term of the contract.

With regards to aftercare, Omni has accepted Miss C paid extra for this, and T went out of business. So I can understand why she's arguing she lost out. But while I can understand the reasons, Miss C wasn't able to provide Omni with sufficient evidence to demonstrate what she'd lost out with the aftercare through written terms of the contract, including the sort of revision surgery Miss C says she thinks she should've been eligible for. I think Omni would've fairly wanted to be more certain what Miss C lost out on. I think Omni took a pragmatic view in saying it would consider if any surgery was medically required.

I've also not seen there were terms relating to Miss C obtaining a full refund in the event she wasn't happy with the procedure, or through the aftercare terms. I have to bear in mind that even if I were to accept there was aftercare not provided, the majority of the sum Miss C paid (which she's asking to be refunded) was to have the initial procedure carried out, which it was. Overall, I don't think it would be fair to tell Omni it needs to provide Miss C a full refund to compensate her for a potential loss through breach of contract with regards to the aftercare based on the limited evidence available.

### *Claim handling*

I appreciate Miss C is unhappy with how Omni dealt with the claim, and that it asked her to provide evidence she didn't have. I don't think Omni dismissed her concerns. I think Omni was asking for the usual sort of evidence that would be required to assess claims like Miss C's. I think it tried to obtain enough evidence to consider the claim for Miss C before giving its answer. I don't think Omni had the information itself, and I don't think it was required to have that information when granting the loan agreement. I think it was for Miss C to evidence her claim for it. But because of the lack of evidence it had to ask her for further information. And like our investigator pointed out, even if I agree Omni should have sent its final response sooner, I have to bear in mind that Miss C had referred her complaint to the Financial Ombudsman within a couple of months of her contacting Omni while waiting for that response. So it's not clear that any perceived delay in Omni dealing with the complaint had a significant impact on Miss C.

Overall, I'm not saying something definitely hasn't gone wrong, but while I'm sympathetic, I don't find I have the grounds to direct Omni to take any action in relation to how it handled Miss C's claim.

### **My final decision**

My decision is that Omni Capital Retail Finance Limited has considered the claim fairly. I make no directions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 13 February 2026.

Simon Wingfield  
**Ombudsman**