

The complaint

Mr M has complained about the way Creation Consumer Finance Ltd (“Creation”) responded to claims he’d made under section 75 of the Consumer Credit Act 1974 (the “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, in December 2022 Mr M took out a fixed sum loan agreement with Creation to pay for the supply of a heating installation. The agreement was for £7,045 and it was to be paid back with 36 payments of around £195. The loan payment was made to a firm I’ll call “V” and the installation was carried out by a firm I’ll call “S”.

The contract was for:

- Smart thermostat.
- Boiler and flue.
- New gas run.
- 6 radiators installed.
- All new flow and return pipes throughout.
- Electrician to install fuse spur.
- Brick up of existing flue.
- Electrolytic limescale reducer.
- Full pipework and radiator system chemical flush.
- Remove and dispose of old boiler.
- Gas and building control registration.

Mr M also entered into another separate contract for S to carry out some further works in relation to installing heating pipes; installing hot and cold feed to bathroom and kitchen; and to run the waste pipe from the new kitchen.

Creation said it received a claim in August 2023 because S had not installed the boiler and Mr M had been going back and forth with it. Over the next few months Creation liaised with S and Mr M. S said it didn’t hold itself liable for stress or delays caused by the project. It said Mr M had lost time and money due to other contractors’ poor workmanship. It agreed it missed an appointment but it said it would offer a free boiler service to say sorry. It said it couldn’t pressurise the system unless Mr M could provide photos the project was of a suitable standard and that the water was turned on with no leaks.

Creation responded to the claim in March 2024. It said S said the installation could have been completed from November 2023 but it was prevented from doing so. But it said S was willing to complete the remedial works.

Mr M decided to refer his complaint to the Financial Ombudsman in May 2024. Mr M also obtained a gas safe report in August 2024 that highlighted:

- The gas installation pipework was not sleeved.
- The securing bolts on the gas meter bracket were missing.
- The appliance chimney/flue had not been internally and externally sealed to the structure of the building following the installation of the chimney/flue.
- The benchmark commissioning checklist had not been fully completed.
- The appliance requires notification to the relevant Building Control Authority.

One of our investigators looked into things and said that he could only consider the claim in relation to the works Creation provided credit for. He said he didn't think the work was completed with reasonable skill and care. And he said the following works were outstanding:

- 4 out of 6 radiators have been connected with two remaining unconnected.
- The hole in the bathroom wall is not bricked up.
- The flue hasn't been sealed externally.
- The thermostat needed to be installed.
- Required certification was outstanding in relation to the manufacturer's warranty.

Our investigator also didn't think the pipework to the radiators was done to a professional standard. Overall he said Creation should arrange for the works to be completed as well as correcting the work on the radiator tails. He didn't think Creation needed to do anything further.

Mr M didn't agree so the complaint has been passed to me to decide.

Since the complaint was referred I asked the investigator to request further information. I wanted to know more about the nature of the relationships between Creation, V and S. I also wanted to know from Mr M what had happened recently.

Mr M said there'd been no update from Creation or S. And he asked if the Financial Ombudsman could look at the issue of consequential losses as this wasn't fully considered. He also said he was unhappy with how long it took Creation to look into the claim. He said the way S dealt with things meant he'd been deprived rental income in the region of £1,500 - £1,600 per month to cover the mortgage payment of around £950. He also said the situation had negatively impacted his mental health.

He said the outstanding issues were:

- All 12 radiator tails have errors that are unsightly.
- The bedroom and bathroom radiators are not installed.
- The existing flue has not been bricked up.
- Gas safe register requires the external flue to be sealed.
- S had overcharged for a new gas run that wasn't installed.

I issued a provisional decision that said:

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 M and Creation 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 M paid for the heating installation 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 makes Creation responsible for a breach of contract or misrepresentation by the supplier under certain conditions. I think the claim is within the relevant financial limits. There also needs to be a valid debtor-creditor-supplier ("DCS") agreement in place in order for a claim to be considered under section 75.

One of the conditions for a claim to be considered under section 75 is that the borrower (debtor) needs to have used the credit to pay the same company which they have a like claim against for breach of contract or misrepresentation. In this case, Mr M is the debtor and so he'd be the one who'd need to have a claim against the supplier for breach of contract or misrepresentation. But there are two companies involved here – V and S. I need to consider whether the agreement here is made under pre-existing arrangements, or in contemplation of future arrangements between Creation and the end supplier – S.

I asked our investigator to contact Creation to find out a bit more about the nature of the arrangement it had with V. V is a company that enables other businesses (like S) to introduce finance in the home. V covers merchants such as home improvements, renewables, healthcare and home appliances. Creation said it couldn't query a retailer's business model. So it didn't really answer the questions posed.

On balance, due to the nature of the way V works, I'm minded to say when Creation made the credit agreement it would have contemplated its loan could be funding a purchase with V from suppliers whose identities were unknown to it, who it didn't have a direct relationship with and who it hadn't vetted individually. I think there's an argument the agreement was made under pre-existing arrangements with S or in contemplation of future arrangements, via V. So I think there's a DCS agreement in place. If Creation has any objections to that point, it can let me know in response to this provisional decision, with supporting evidence.

It's important for Mr M to note that if the DCS agreement isn't intact, he wouldn't have a valid claim against Creation for a breach of contract or misrepresentation by S. So any final decision could change. But in the interests of moving the complaint forward, I've considered how things should be put right based on what I think now.

Relevant legislation 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. Relevant legislation also sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met. It's not been made totally clear if Mr M entered into the agreement as a consumer (as in not for business purposes) or a micro-enterprise given he said the property was to be rented out. But I wrote out to the parties setting out why I thought he was an eligible complainant and haven't heard any objections.

It's important to note that I'm not considering a complaint against S. I'm considering a complaint against Creation, and I'm looking at how it responded based on the evidence presented. So I have to consider Creation's obligations as a provider of financial services – in this case its liability for breach of contract or misrepresentation under section 75. It's also important to note that I need to primarily focus on what happened up to the point Creation issued its final response letter because the events preceding this relate to what it's had the chance to consider. I need to be able to draw a line under things when deciding complaints.

Moreover, it's important to note that compensation for distress and inconvenience caused by S is limited with this type of complaint. I appreciate Mr M is upset about what's happened and said he's been put to inconvenience. But I have to consider what Creation can be held liable for – which is the like claim Mr M 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. Moreover, while I appreciate Mr M is unhappy, it's not clear the issues have caused physical inconvenience or discomfort. I therefore don't have the grounds to direct Creation to pay compensation for this.

With regards to the consequential losses Mr M mentioned, when considering those sorts of losses I need to consider whether the losses were reasonably foreseeable and directly flowing from the breach of contract. I also need to consider whether there's sufficient evidence of the losses, and whether or not Mr M took steps to mitigate. I've previously explained to Mr M I'm not going to be minded to direct Creation to pay him loss of rental income. Considering the limited information presented by Mr M when he raised his complaint, I don't think Creation was unfair not to award any consequential losses by the time it issued its final response letter because I don't think all the requirements I've mentioned in this paragraph were met.

However, with regards to how to put things right, it's not in dispute that the works that were part of the contract should be carried out. Mr M said the outstanding works are:

- 1. All 12x radiator tails are faulty and unsightly. They should be re-run correctly through the floor vertically and aligned with the radiator valves. S has failed to address this since February 2024. He expects any areas disturbed to correct the radiator tails will be made good.*
- 2. The bedroom and bathroom radiators were not installed because the pipes were so close to the walls due to a lack of due care and skill.*
- 3. The boiler flue is not sealed externally.*
- 4. S removed the old boiler from the bathroom wall but left the flue hole open and not bricked up as was required in the quote. This is causing the property to be less energy efficient.*

I don't think it's in dispute that Creation should arrange to have points 2 – 4 carried out. Creation hasn't objected. It should also arrange for any of the other recommendations in the gas safe report to be carried out if not already done.

With regards to the cost of the gas run, Mr M said S agreed to match a quote from another supplier that included running a pipe externally from the gas meter, but he said S later told him it wasn't necessary. So he felt he was overcharged. This wasn't raised with Creation initially and, in any event, I don't think he supplied sufficient information for Creation to be able to determine or calculate what, if anything, he'd lost out.

With regards to point 1, I'm conscious I'm not an expert on heating installations, and neither is Creation. I'm not sure if those pipes/tails have been installed with reasonable care and skill or whether there is a problem with the way they've been installed. I'm not sure if it's an aesthetic preference to have the tail pipes installed without a bend or whether that is something that should be done in line with certain regulations / best practices or not. Mr M didn't supply supporting evidence to Creation to demonstrate the radiator tails weren't installed with reasonable skill and care. So I don't have the grounds to direct it to carry out anything in relation to point 1.

With regards to how Creation handled the claim or complaint overall (up to when it sent its final response), Mr M raised the complaint in August 2023. Creation reached out to S for information when Mr M contacted it which I think was fair. But there were several messages back and forth which meant progress wasn't speedy. It seems there was also a period Creation waited for Mr M to respond to S's request to arrange a visit. It also seems the relationship worsened between S and Mr M. Creation was receiving responses where both sides were saying the other party caused delays. It's difficult to get to the bottom of what happened. But on the other hand, I'm mindful it took Creation until March 2024 to send a final response letter. I think Creation should have offered a more substantive response sooner. While I don't think it was responsible for all the delays, and I'm conscious that to an extent it was reliant on S and Mr M to progress things, I still think Creation should have got to grips with the situation sooner than it did which might've helped Mr M resolve things quicker. The problem was that the situation was ongoing. Creation indicated S could have completed works from November 2023, so I think it should have set out its position before March 2024. It must have been frustrating for Mr M. I think it should pay Mr M £150 to recognise that.

My provisional decision is that I'm intending to uphold this complaint and direct Creation Consumer Finance Ltd to:

- Arrange for the works in relation to point 2 – 4 (and in relation to the gas safe recommendations) above to be carried out*.*
- Pay Mr M £150 compensation.*

Mr M has said he is arranging quotes for works. If Creation can't arrange the works to be carried out itself straight away and Mr M provides up to three quotes by VAT registered tradespersons Creation can choose to pay one of Mr M's quotes. Mr M should be given three months to arrange the quotes from the date he accepts the decision, if that's what he wants to do. Creation can decide if it's happy with the first one or two quotes sourced if required.

Creation accepted the provisional decision. Mr M didn't. In summary, he said:

- The decision doesn't adequately reflect the prolonged detriment he'd suffered.
- Work commenced in December 2022 and remains incomplete despite Creation and its contractor having the opportunity to complete it from November 2023. This left him without a safe and functioning heating system for nearly two years. During that time he was required to continue making loan payments of around £200 per month, and he lost rental income of around £1,500 - £1,600 per month. He'd also suffered prolonged distress and inconvenience which had impacted his health.
- Relevant legislation sets out the work needs to be carried out with reasonable care and skill and within a reasonable time which didn't happen. His entitlement was far greater than the compensation recommended.

- He requested Creation accept quotes for all works including radiator tails with making good of disturbed areas; to make sure all contractual and gas safe requirements are rectified; redress in line with the scale of loss suffered; reimbursement of loan payments for a system not delivered; compensation for loss of rental income; general damages of £2,500. His total compensation sought was around £27,000.

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'd like to thank the parties for their responses. I'm sorry to hear Mr M has been unwell. I can't imagine how he must feel, but I thank him for taking the time to bring his complaint and in answering my provisional decision.

Mr M has mentioned the impact of the situation on his wellbeing. 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 Mr M was 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. But I am able to consider how Creation dealt with the claim overall. And as I said before, I primarily need to consider what happened up to when Creation sent its final response letter because the events preceding this relate to what it's had the chance to consider.

Mr M has asked for a refund of his loan repayments. But I don't find there's grounds to recommend that. While I appreciate Mr M is unhappy with the work, and that there's elements that are incomplete, he agreed to the terms of the loan agreement, so I don't find it unfair Creation has requested those repayments from him and I'm not going to direct it to refund him.

I've also thought about the loss of rental income that Mr M has alleged he's lost out as a result of a breach of contract. It's important to highlight again the sorts of things I need to consider when it comes to compensation or consequential losses as a result of a business' mistake is whether the losses were reasonably foreseeable and directly flowing from the mistake. I also need to consider what sort of evidence we've been supplied and whether the complainant has taken steps to mitigate.

Mr M himself said he entered into the agreement in his personal name, not through any business or limited company. He said the property in question was never let. It was undergoing renovation and refurbishment at the time with a view to potential letting in the future. He said he doesn't operate a rental business and he was not acting in the course of any business, trade or profession at the time. Based on what he's said, coupled with the fact that when he first was speaking to Creation, there was no mention of this being a rental property I can't see rental income would've been a reasonably foreseeable loss.

I also have to bear in mind that up to the point Creation issued its final response, (which as I've said are the events I primarily what I need to consider) I can't see there would have been losses that were flowing from the breach based on what Mr M has said. The loss was hypothetical at that point. Even if I were to look at the loss of rental income being a splinter issue from what went wrong initially, there was no rental agreement in place to show a tenant was going to move in on a specified date, which couldn't happen due to S not completing works.

Moreover, I also have to bear in mind that Creation's answer essentially informed Mr M that S was willing to come and complete the work. Mr M was unhappy with other elements of the work. But to minimise the impact of what went wrong, I think Mr M could have allowed S to

complete the work that was agreed as part of the contract. While Mr M has said Creation and S refused, I think the situation wasn't resolved because the relationship broke down and Mr M wanted further works carried out that S thought were outside of the scope of the original contract. I'd like to have seen more to show Mr M tried to do everything possible to minimise the impact of what went wrong.

Overall, I don't find I have the grounds to direct Creation to reimburse Mr M for loss of rental income.

With regards to the radiator tails. As I've already explained, I'm not a heating expert, and neither is Creation. I've not seen sufficient evidence that those radiators haven't been installed with reasonable care and skill, or indeed that Mr M couldn't have let the property out with the tails as they were. I've reviewed Mr M's quotes carefully, but I've not been able to determine there's been a breach of contract in relation to the radiator tails. That's not to say something definitely hasn't gone wrong. But I don't find I have the grounds to direct Creation to cover the cost of that part of the remedy Mr M is seeking. If Mr M were to obtain suitable sufficient independent evidence, it may be something Creation can reconsider for him separately. But I'm not going to direct Creation to pay the cost to have the radiator tails changed under this complaint.

I'm still of the view the works that were agreed as part of the original contract should be completed, for the same reasons I set out in my provisional decision. I've also set out that as part of that, any recommendations from the gas safe report should also be carried out. Creation has agreed. I think this fairly remedies any breach of contract.

Finally, with regards to the compensation, I've already set out the scope of what I'm able to consider under this complaint, and why I didn't have grounds to direct Creation to pay compensation for distress as a result of the breach of contract. The compensation I recommended was in relation to the initial delays in setting out its position on the claim. So while I appreciate Mr M thinks this is a token gesture, the compensation was there to reflect that, up to when Creation sent its final response letter, things could have gone better and I think Creation could have provided its answer a bit sooner.

While I know Mr M will be disappointed, I'm not going to depart from the conclusions I reached in my provisional decision. I should point out that Mr M doesn't have to accept the decision. He's free to pursue the complaint by more formal means, such as through the courts, if he thinks he'd achieve a more generous outcome.

Putting things right

My decision is that I direct Creation Consumer Finance Ltd to:

- Arrange for the works in relation to point 2 – 4 (and in relation to the gas safe recommendations) above to be carried out*.
- Pay Mr M £150 compensation.

*Mr M has arranged quotes for works. If Creation can't arrange the works to be carried out itself straight away and Mr M provides it the quotes by VAT registered tradespersons he had arranged Creation can choose to pay one of Mr M's quotes. Given the quotes also cover works I've not said Creation needs to have carried out, Creation may have to speak to the tradespersons direct to set out the scope of the works, and to establish the cost – if Mr M chooses to accept this decision.

My final decision

My final decision is that I uphold this complaint and direct Creation Consumer Finance Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 October 2025.

Simon Wingfield
Ombudsman