

## The complaint

Mrs B complains that Creation Consumer Finance Ltd (Creation) has treated her unfairly in relation to its obligation with regard to goods purchased through a loan.

## What happened

In July 2023, Mrs B purchased two sofas (the goods) from a merchant, who I'll call S. Mrs B bought a three-seater sofa for £749 and a two-seater sofa from the same range for £719. The total order cost including delivery was £1,597. Mrs B paid a £320 deposit and took out a fixed sum loan agreement with Creation for the remaining balance. The agreement was to run for 24 months with monthly repayments of £53.20.

Mrs B said that she went into S's store to choose her goods and was assisted by staff. She upgraded to "firm foam" cushions as this was more suitable for her needs. In February 2024 Mrs B contacted S with concerns about the goods. She said the seat interiors were sinking and were uncomfortable. She further said it was both uncomfortable to sit on and difficult to get up due to the cushions riding forward.

S sent an independent company to Mrs B's house to inspect the goods. The inspection revealed a manufacturing fault due to loss of resistance in the cushion foam. A replacement of the seat interiors was arranged as a resolution to the matter.

In April 2024, Mrs B contacted S again to say she was experiencing the same issue with the replacement cushions. S sent out an independent inspection company again. The report indicated that there was no manufacturing fault. Instead, it was found that the foam is soft line and isn't intended to be a firm style. S therefore did not offer to put things right for Mrs B.

Mrs B brought her concerns to Creation under Section 75 of the Consumer Credit Act 1974 (Section 75). She said her husband has a disability and is unable to use the goods. She said the goods are not fit for purpose and are unsuitable. Creation reviewed the claim and rejected it on the basis that no evidence had been provided that there was an issue with the goods following the replacement cushions having been fitted.

Mrs B then brought her complaint to our service. She said the cushions and covers were replaced, like for like. However, within weeks she experienced the same issue, and the inspector now found no fault with the cushions. Mrs B said she has been trying to get the goods replaced or refunded.

Our investigator reviewed the complaint and found that Creation had not treated Mrs B fairly. Our investigator said that although Mrs B's receipt does not show she paid extra for a firmer foam, customer reviews from around the time Mrs B bought her goods show other customers did make the same upgrade, so she thought it was likely this was an option and did happen. Based on the comments made during the second inspection our investigator was not satisfied that when the replacement took place, Mrs B was provided with the firmer foam she had been provided with on purchase. As such, our investigator concluded the replacement was not satisfactory and Mrs B should be allowed to return the goods and receive a refund of the amount paid for them, less an amount for fair usage.

Mrs B agreed with this outcome. Creation however, disagreed and asked for an Ombudsman to review the complaint. Creation obtained comments from S who said it only provides one grade of foam (which is the type Mrs B had). It further said it had provided evidence of no manufacturing fault and Mrs B is complaining about comfort which is a subjective matter. So, the complaint was passed to me to decide.

I issued a provisional decision, in which I said the following:

*“Section 75 allows – in certain circumstances - for a creditor (Creation) to be jointly and severally liable for any claim by the debtor (Mrs B) of breach of contract or misrepresentation made by a supplier of goods and/or services (S).*

#### *Breach of contract*

*If the goods were not of satisfactory quality as Mrs B alleges then this would mean that a breach of contract has occurred. So, I will start by assessing whether there is enough evidence to support a finding that there has been a breach of contract.*

*Both parties acknowledge that the first inspector identified an issue with the first set of cushions, and the suggestion was made to replace them. This was actioned by S. So, the question becomes one of whether the replacement cushions were also of unsatisfactory quality, such that the replacement of the cushions was not successful and the goods remained not fit for purpose.*

*S asked an independent inspector to assess the goods. I would like to make clear to Mrs B that when reviewing complaints of this nature, we are reliant on the information provided by suitably qualified experts in the relevant field. The report from April 2024 clearly indicated that the foam filling for the cushions is a soft line foam. The inspector further states for the cushions to be exactly like the ones that were replaced indicates that there was no issue with the original cushions and the report concludes that no manufacturing fault is present.*

*Mrs B has not provided any information or evidence that contradicts the findings of this report and so I find it reasonable that Creation relied on this evidence to decline the claim and do not find that it did so unreasonably. I am empathetic to Mrs B's situation and take note of her and her husband's health conditions, which mean they do need a firmer style of cushion to be comfortable. So, for completeness, I have considered what she purchased in the section below to clear things up as best I can.*

#### *Misrepresentation*

*Mrs B has said that she paid additional money at the point of sale for a firm foam upgrade. If Mrs B was provided with incorrect information which she relied on to make the purchase, then this may qualify as a misrepresentation so I will consider whether this happened here.*

*There is no record of the conversation had with the sales assistant and so I turn to the evidence available to make a determination. I have been provided with a copy of the receipt which only says “Trim: Oak effect/studs/foam”. For the foam to be mentioned, suggests that some change was made to the standard cushion filling provided.*

*On S's website, it still sells the same goods but under a different name. The sofa is now advertised as “soft and supportive” with “foam seats included”. I find it likely that the advertisement of these goods has changed on the website since Mrs B made her purchase and the original advertisement (and therefore what Mrs B was likely told about these goods when making her purchase in store) is not available to me.*

*There are some reviews from around the time Mrs B made her purchase where other customers mention upgrading to foam cushions. To be clear, all the reviews mention upgrading to “foam” rather than “firm foam”. In fact, one review goes as far as to mention not needing to fluff the cushions every night due to their upgrade. The Q&A section also explains that if you wanted to upgrade to foam cushions you can add the “comfort upgrade” to your package. This suggests to me that prior to the website changing, the standard cushions that came with this sofa were of a more porous material such as fibre which would require constant fluffing (which could be upgraded to foam). And at some point, after Mrs B’s purchase, foam cushions are now being provided as standard on these goods.*

*Having considered all the information available, I do find it likely that Mrs B added the comfort upgrade to her purchase so her account of paying more for the cushions is likely accurate. However, the information provided by S through both its submissions in response to this complaint and its website suggests its foam is a soft foam (rather than firm). There is no evidence to suggest that a firm foam was ever an option. Although foam would be firmer than other materials such as fibre in general.*

*This means that although I understand that it is likely Mrs B purchased something that was not suitable for her needs as it seems as though she and her husband do indeed need a firmer variety of foam, there is no evidence to suggest that incorrect information was given to her which induced her in to purchasing these goods. It is more likely that she swapped her purchase from another cushion filling to foam, and paid more for this, but the foam was always of a softer variety which is why she is experiencing sinking even after replacement. As this is a natural feature of the material used there is no evidence to suggest it was not as advertised or supplied with any issues.*

*Overall, having taken everything into account, I am minded to find that Creation has treated Mrs B fairly in declining her claim. And as such, I will not be asking it to do anything to put things right for Mrs B.”*

Creation agreed with the provisional decision and had nothing further to add. Mrs B has not responded to the provisional decision by the deadline provided.

### **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.

As there is no further evidence for me to consider, I have reached the same outcome and for the same reasons as outlined in the provisional decision.

### **My final decision**

My final decision is that I do not uphold Mrs B’s complaint against Creation Consumer Finance Ltd.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs B to accept or reject my decision before 8 January 2026.

Vanisha Patel  
**Ombudsman**