

complaint

Mrs E complains that Creation Financial Services Limited is holding her liable for a point of loan sale her husband took out.

our initial conclusions

The adjudicator recommended that the complaint should be upheld. She considered that Creation was not in a position to pursue Mrs E for her husband's loan payments. The adjudicator noted that the payments made by Mrs E had been to secure her use of the car and not to pay off the debt. This was incorrect as the car had been bought outright. This meant Creation had no claim on the car. Creation should refund Mrs E's payments, and 8% interest. It should write off the debt and pay her £500 for trouble and upset.

Creation does not agree. It says that Mrs E was told she had no liability for the debt. She wanted to use the car so it accepted loan payments from her. Mrs E has benefitted from using the car.

my final decision

To decide what is fair and reasonable in this complaint, I have considered everything that Mrs E and the business have provided.

The car was bought outright under the fixed sum loan agreement. As such, Creation had no interest in it. It could not take the car from Mrs E if she failed to make the loan payments. I find that Mrs E should not have been required to make the loan payments to keep the car. Creation acted unfairly in asking her to pay these sums two months after her husband's death.

Creation should refund the payments made by Mrs E together with interest at 8% simple per annum from the date of payment to the date of settlement. I note that Creation wrote off the debt in October 2014.

Creation should also pay Mrs E £500 for continuing to ask her to pay the loan payments when it was aware she had no liability for the debt.

My decision is that I uphold this complaint as set out overleaf.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs E either to accept or reject my decision before 23 January 2015.

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

In settlement of this complaint, Creation Financial Services Limited should:

- Refund payments made by Mrs E from the date of her husband's death.
- Pay interest at 8% simple per annum from the date of the payments to the date of settlement.
- Pay Mrs E £500 compensation for trouble and upset.

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.