

complaint

Mrs H complains that Creation Financial Services Limited will not refund to her the money that she paid under a fixed sum loan agreement for laser-eye surgery. The company that provided the surgery and aftercare has stopped trading and Mrs H's complaint is made against Creation Financial Services under section 75 of the Consumer Credit Act 1974.

our initial conclusions

The adjudicator did not recommend that this complaint should be upheld. She did not consider there to be sufficient information to show that there had been a breach of contract or misrepresentation under section 75. Mrs F says, in summary, that she paid the eye-care company for the surgery and lifetime aftercare but that the company has stopped trading. She says that she has received letters from a second eye-care company telling her that it will provide the aftercare but that there will be a charge for it. She also complains about the service that she has received from Creation Financial Services and about the amount that she has paid for the eye-care.

my final decision

I have considered all that Mrs H and Creation Financial Services have said and provided in order to decide what is fair and reasonable in this complaint.

The eye-care company has stopped trading and is therefore unable to provide the aftercare for which Mrs H has paid. That is a breach of contract for which Creation Financial Services would be liable under section 75. However, another eye-care company has agreed to provide the aftercare to Mrs H without further charge and has confirmed that to her in writing. I consider that to be an acceptable remedy for the breach of contract. I therefore do not consider that it would be fair or reasonable for me to require Creation Financial Services to refund to Mrs H any of the money that she has paid to it under the fixed sum loan agreement or to take any other action in response to her complaint. I am not persuaded that there is enough evidence to show that Creation Financial Services has provided unacceptable service to Mrs H. I consider that the amount that Mrs H has paid for the eye-care is the amount that she agreed to pay when she signed the contract for the eye-care and the fixed sum loan agreement.

For these reasons, my decision is that I do not uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs H either to accept or reject my decision before 20 January 2015. *Jarrod Hastings*

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

Mrs H has stopped making the payments due to Creation Financial Services under the fixed sum loan agreement. Creation Financial Services is entitled to those payments and I recommend that Mrs H contact it to agree a repayment schedule, if she has not already done so.

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.