

## **The complaint**

Miss B complains that two sofas she acquired under one or more fixed sum loan agreements with Secure Trust Bank Plc trading as V12 Retail Finance (“V12”) weren’t of satisfactory quality and V12 should have to compensate for this ‘fact’ under section 75 of the Consumer Credit Act 1974.

## **What happened**

In 2022 Miss B purchased two sofas from a company that I will call S with finance provided by V12.

In 2023 Miss B complained to V12 about the quality of her two sofas and asked V12 to compensate her for this ‘fact’.

On 8 May 2023 an inspector, appointed by S, attended Miss B’s property and inspected both sofas. He concluded there was no fault with either sofa and what Miss B was experiencing was *“normal product performance and natural settlement”*.

On 27 June 2023 V12 issued Miss B with a final response letter (“FRL”). Under cover of this FRL V12 said it wasn’t upholding Miss B’s claim against it, and her subsequent complaint about the same, because it wasn’t persuaded either sofa was faulty.

In July 2023, and unhappy with V12’s FRL, Miss B referred her complaint to our service.

Miss B’s complaint was considered by one of our investigators who came to the view that V12 had done nothing wrong in concluding that it wasn’t liable to compensate Miss B.

## **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’ve read the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point or particular piece of evidence, it’s not because I’ve failed to take it on board and think about it but because I don’t think I need to comment on it in order to reach what I think is the right outcome. And our rules allow me to do this, this reflects our informal, free service as an alternative to the courts.

Where the information I’ve got is incomplete, unclear or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

Miss B acquired two sofas under one or more regulated fixed sum loan agreements. So, I'm satisfied this service can consider Miss B's complaint.

When something goes wrong with goods or services and the payment was made, in part or whole, with certain types of credit, as is the case here, it might be possible to make a section 75 claim. This section of the Consumer Credit Act 1974 says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the retailer if there's either a breach of contract or misrepresentation by the retailer.

I'm not determining the outcome of a claim that a party might have under section 75. But I take section 75 into account when I think about what's a fair way to resolve the complaint, but I don't have to reach the same view as, for example, a court might reach when considering breach of contract. From what I can see, all the necessary criteria for a claim to be made under section 75 have been met.

So, I will now consider whether there is sufficient evidence of a breach of contract.

The Consumer Rights Act 2015 ("CRA") says, amongst other things, that the sofas should've been of a satisfactory quality when supplied to Miss B. And if they weren't, then under section 75 V12 would be responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, durability and other relevant circumstances.

The CRA also says that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed that the fault was present when the goods were supplied. Although Miss B tells us that she noticed the sofas were showing signs of sagging shortly after taking delivery of them, the earliest evidence we have of Miss B raising any concerns about the sofas is more than six months after she took delivery of them. This means the onus is on Miss B to show that the sofas weren't of satisfactory quality when they were supplied.

So, I've considered what Miss B has said and all the evidence she has provided. Miss B says the sofas aren't as comfortable as they were when she first took delivery of them and they are now unsightly to look at.

However, comfortability is subjective. It will depend partly on the user's own preferences, perceptions and characteristics – including their body weight, height, their seating position, what they are used to, and what they like and dislike. So, whilst I don't doubt that Miss B finds the sofas uncomfortable, I don't think this means there is a fault with them.

Miss B says the sofas are unsightly to look at and has provided a number of photographs in support of her view in this respect. But equally S has advised that this isn't unusual, given what the sofas are made of and given what the cushions are filled with, and that they simply need simple regular maintenance to maintain their performance, comfort and look. So I don't think that this particular issue makes either sofa of unsatisfactory quality.

Furthermore, Miss B hasn't provided any independent evidence in support of her complaint, like an independent report confirming a manufacturing defect or premature wear and tear, whereas V12 has been able to provide an inspection report provided by an inspector appointed by S which says, amongst other things:

*"...no faults found, normal product and performance and natural settlement. This is exactly what I expected to see in line with normal settlement, no faults found. Inspected internally, demonstrated and reassured customer that all webbing, frame and structure was fine and in intact. There are no faults with the furniture."*

I appreciate Miss B will be disappointed but based on everything that has been said and submitted I'm satisfied that V12 has done nothing wrong in declining her claim for compensation and nothing wrong in not upholding her complaint about the same.

I note that under cover of an email dated 13 July 2023 S has offered Miss B compensation as a gesture of goodwill. Now I don't know whether this offer is still available for acceptance by Miss B, but she might want to consider contacting S to see if it is and consider whether, in all the circumstances, it should be accepted.

### **My final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 17 November 2023.

Peter Cook  
**Ombudsman**