

The complaint

Mrs B complains that the sofa she acquired through a fixed sum loan agreement with Creation Consumer Finance Ltd was not of satisfactory quality.

What happened

Mrs B acquired furniture from a retailer in January 2019 and financed the acquisition through a fixed sum loan agreement with Creation. The furniture cost £1,388 and Mrs B paid a £138 deposit and was required to make 48 monthly repayments under the agreement of around £26. She contacted Creation in December 2022 to say that the recliner sofa had become faulty. She was concerned that there was an internal fault with the recliner mechanism and that the stitches had come out.

Creation acknowledged Mrs B's claim and said that she would need to provide an independent inspection report to confirm the faults as she had been in possession of the sofa for more than six months. Mrs B provided an inspection report which found the issues weren't due to manufacturer faults and so it didn't uphold her complaint.

Mrs B wasn't satisfied with Creation's response and referred her complaint to this service.

Our investigator initially didn't uphold this complaint. However, Mrs B then sourced a second independent inspection report which found the sofa to be faulty. Because of this, our investigator upheld this complaint and said that Creation should pay for the repairs and refund Mrs B the cost of the two inspection reports (totalling £105).

Creation didn't accept our investigator's view. It said that the second report indicated that a low grade metal was used or a design flaw and goes on to say the sofa was structurally faulty. It said there was no confirmation of how the damage was done or that there was a manufacturing fault that was present from the point of supply. It said the website of the company carrying out the report had no evidence of it doing reports of this nature and instead it was an upholstery company whereas the original report was undertaken by a company with experience in carrying out this type of report. It said the original report said the issue was due to usage and misuse and not a manufacturing fault.

My provisional conclusions

I issued two provisional decisions on this complaint. My first provisional decision noted that Mrs B contacted Creation almost four years after acquiring the sofa and had there been faults present with the sofa at the point of supply, I thought they would have been identified much sooner. I noted the comments in report 2 about a low-grade metal being used and a possible design fault and that the framework had snapped. But as the report didn't contain any further details to explain how the damage was caused nor state that the framework wasn't fit for purpose, I didn't find I had enough evidence to say the issue occurred due to a fault present at supply.

I considered whether the current fault meant that the sofa wasn't sufficiently durable. Report 1 said the issues arose due to wear and tear and usage and misuse, and report 2 didn't

comment about how the metal framework had snapped or comment about whether the fabric issue was due to wear and tear. Given the issues raised in report 1 and noting how long Mrs B had the sofa before the issues arose, I didn't find I could rule out that the issues with Mrs B's sofa weren't due to wear and tear or possible misuse and so, on balance, I didn't find I could say the sofa wasn't sufficiently durable.

Therefore, I didn't find I had enough evidence to uphold this complaint.

Following my provisional decision, Mrs B provided a further testimony alongside additional evidence in support of her claim. This evidence included reviews of the company that undertook report 1, and a further statement from the company that undertook report 2 stating that they didn't consider the damage to the sofa being due to wear and tear and instead that it considered it a manufacturer/ structural fault.

Based on this, I issued a second provisional decision dated 4 December 2023. My conclusions were as follows:

As I set out in my provisional decision, it is clear that there is a fault present with the sofa. The outstanding issue is whether the current fault is the result of a fault that was present or developing at the point of supply. Given the time that Mrs B had the sofa before the issues were raised, I think it was reasonable that Creation said an independent inspection was needed and it provided three different companies Mrs B could use for this and said she could contact it if she wished to discuss using a different provider. I note Mrs B's comments about the company that produced report 1 and I have looked at the online reviews she has provided. However, the company providing report 1 is an independent company and has experience of carrying out reports of this nature and so I find it reasonable to consider its report as part of my assessment.

That said, Mrs B provided a second inspection report which came to a different conclusion. It said that the cross-bar section of the sofa had snapped which it attributed to either low grade metal being used or a design flaw or both. Creation said that the second report didn't provide confirmation of how the damage could have occurred or if it was due to an issue present from the point of supply. After my provisional decision the provider of report 2 provided a further statement saying that the metal shouldn't have snapped and noting the location of the metal bar it said that this had happened due to a manufacturer or structural fault and not because of misuse or wear and tear.

I have considered the new evidence alongside the evidence initially provided. Report 1 stated that the sofa was in excellent condition and had been maintained and while it found the damage was due to use or misuse no further details were provided. Report 2 said that the metal framework had snapped which it put down to either being low-grade metal or a design flaw. In the additional information provided, the provider of report 2 has said that due to the location of the metal bar they do not believe the damage could have been caused by misuse or wear and tear. While I cannot say for certain why the metal has snapped, based on the evidence provided about the general condition of the sofa and noting the comments made about the location of the metal bar, I find on balance it is more likely than not that the issues with Mrs B's sofa are not the result of misuse or wear and tear.

Given the above, it appears more likely than not that there could have been a structural issue with the sofa which resulted in the issues now present. But putting that aside, as I now accept, on balance, the damage wasn't caused by misuse, I do not find I can say that the sofa was sufficiently durable. Given this I do not find that the sofa was of satisfactory quality at the point of supply and so I am upholding this complaint.

Mrs B has said that she doesn't want the provider of report 1 to carry out the repairs as she has lost faith in it. I do not find this unreasonable and I would expect Creation to work with Mrs B to agree a suitable company to carry out the required repairs.

Mrs B accepted my second provisional decision outcome. I received no further information from Creation.

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 make my decision based on the individual merits of each case. I take relevant regulations into account, but my decision is based on what, given the unique circumstances of the complaint, I consider to be fair and reasonable. Where the evidence provided is incomplete, inconclusive or contradictory I make my decision based on the balance of probabilities, that is what I consider most likely to have happened given the information provided and the wider circumstances.

As I set out in my provisional decision dated 4 December 2023, I find on balance that Mrs B has provided enough evidence to support the sofa not being of satisfactory quality.

As I have already set out it is clear there is a fault with the sofa. While the inspection reports gave different reasons for the current issue, I find on balance that the information provided in report 2, alongside the additional information the inspector provided in response to my provisional decision, makes it more likely than not that there could have been a structural issue with the sofa which resulted in the issues now present. But putting that aside, as I now accept, on balance, the damage wasn't caused by misuse, I do not find I can say that the sofa was sufficiently durable.

Given the above, and as no new information was provided in response to my provisional decision dated 4 December 2023, my conclusions haven't changed, and I do not find that the sofa was of satisfactory quality at the point of supply and so I am upholding this complaint.

Putting things right

Creation should pay for repairs to Mrs B's sofa (to be carried out by a company agreed to by the parties) and refund her the amount paid for the inspection reports obtained (based on evidence provided to date this amount is £105).

My final decision

My final decision is that I uphold this complaint. Creation Consumer Finance Ltd should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 31 January 2024.

Jane Archer
Ombudsman