

The complaint

Mrs J complains that Clydesdale Financial Services Limited, trading as Barclays Partner Finance, won't compensate her for the consequential losses that she's claimed as a result of some faulty kitchen furniture being supplied to her. Her husband is also involved with her complaint.

What happened

Mrs J used a fixed sum loan agreement with Barclays Partner Finance, that she electronically signed in April 2021, to pay for some kitchen furniture. The price of the furniture was £8,986.79 and she paid a deposit of £472.98 so the loan was for £8,513.81 which she agreed to repay by 83 monthly instalments of £101.35 and a final payment of £101.76. Some of the furniture was damaged when it was delivered in May 2021 so Mrs J complained to the supplier. She said that she'd had to cancel the fitter who she'd already paid £200 to and that her husband had taken time off work for the delivery and installation.

She then said that she was cancelling the contract and had made a claim to Barclays Partner Finance under section 75 of the Consumer Credit Act 1974. She also said that she expected to be paid compensation for her losses. The supplier replied seven days later and offered Mrs J two options: to replace the damaged items and a refund of £1,600; and to collect the furniture, refund the deposit paid and end the finance agreement. Mrs J chose the second option but the supplier said that it was in full and final settlement of all matters which wasn't acceptable to Mrs J. Emails were exchanged between the supplier and Mrs J and, three weeks after it had given Mrs J the options, the supplier offered to pay her £200 as a gesture of goodwill.

Barclays Partner Finance said that the supplier had given two reasonable resolutions and Mrs J had accepted the return of the kitchen so it was closing her claim, but it credited £25 to her account as a gesture due to the inconvenience of contacting it. Mrs J wasn't satisfied with its response so complained to this service.

Our investigator didn't recommend that her complaint should be upheld. He said that the supplier had given two options of remedies which he thought were fair and reasonable. He wasn't persuaded that the consequential losses that Mrs J had incurred were a direct result of the contract breach because, if she'd accepted either of the offers, she wouldn't have needed to place any items in storage. He said that the customer service issues were between Mrs J and the supplier and he didn't think that Barclays Partner Finance was responsible for paying any more compensation to her.

Mrs J has asked for her complaint to be considered by an ombudsman. She has responded in detail and says, in summary, that she had the right to cancel the contract within 14 days and should be given a full refund, and the furniture should have been collected without any conditions. She says that the supplier's offer was in full and final settlement so she wouldn't have been able to raise a court case against it after the furniture collection. She says that the collection of the furniture and the refund should have been unconditional so she should be paid the compensation and receive the refund of costs that she's claimed due to the supplier's, and Barclays Partner Finance's, unethical and unlawful behaviour.

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.

Having done so, I agree with the outcome recommended by our investigator for these reasons:

- in certain circumstances, section 75 of the Consumer Credit Act 1974 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier;
- to be able to uphold Mrs J's complaint about Barclays Partner Finance, I must be satisfied that there's been a breach of contract or misrepresentation by the supplier and that Barclays Partner Finance's response to her claim under section 75 wasn't fair or reasonable – but I'm not determining the outcome of Mrs J's claim under section 75 as only a court would be able to do that;
- there's no dispute that there was a breach of contract as some of the furniture was damaged when it was delivered – and the supplier gave Mrs J two options which I consider were fair and reasonable remedies for the breach of contract;
- she chose to cancel the order and for the supplier to collect the furniture, refund the deposit and end the finance agreement but the supplier then asked her to accept that offer in full and final settlement of her claims;
- she didn't want to do so because she wanted to make a claim against the supplier for her consequential losses which I understand were the £200 that she'd paid to the fitter and compensation for the time that her husband had taken off work;
- the supplier offered to pay her £200 in June 2021 as a gesture of goodwill but Mrs J didn't accept that offer and then paid for the furniture to be transported and stored;
- at that time the only outstanding consequential loss that I understand that she was claiming was for her husband's time – but I wouldn't award compensation for her husband's time off work in these circumstances and I'm not persuaded that it's likely that any other claim that she might make for such compensation would be successful;
- the furniture was then transported to the supplier's store in June 2021 and Mrs J's deposit was refunded to her and the finance agreement was cancelled;
- it was Mrs J's decision to not accept the supplier's offer and to pay for transportation and storage of the furniture – and I'm not persuaded that those costs are a direct result of the breach of contract so I don't consider that it would be fair or reasonable for me to require Barclays Partner Finance to reimburse her for them;
- I don't consider that the supplier should have required Mrs J to accept its offer to collect the furniture, refund the deposit and end the finance agreement in full and final settlement of her claims – but, at the time that she put the furniture into storage, it had also offered to pay her £200 and I consider that that was a fair and reasonable offer for it to have made at that time;
- I don't consider that Barclays Partner Finance responded properly to Mrs J's section 75 claim – if it had properly investigated her claims it would have understood that she was claiming for consequential losses which weren't addressed in its response to her – but it credited £25 to her account because of the inconvenience of having to contact it – and I'm not persuaded that it would be fair or reasonable in these

circumstances for me to require it to pay her more compensation than that for its failure to properly respond to her claim;

- Barclays Partner Finance isn't liable under section 75 for any issues with the customer service that Mrs J received from the supplier – and I'm not persuaded that the supplier or Barclays Partner Finance has acted unlawfully or unethically in its dealings with Mrs J; and
- I sympathise with Mrs J for the issues that she's had with the kitchen furniture and the inconvenience that she was caused when the furniture was in her home, but I find that it wouldn't be fair or reasonable in these circumstances for me to require Barclays Partner Finance to reimburse Mrs J for any of the consequential losses that she's claimed, to pay her any further compensation or to take any other action in response to her complaint.

If the supplier hasn't paid the £200 compensation to Mrs J, I suggest that Mrs J now contacts the supplier to see if its offer of compensation remains available to her.

My final decision

My decision is that I don't uphold Mrs J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 26 May 2022.

Jarrold Hastings

Ombudsman