

The complaint

Mr U complains about the way Clydesdale Financial Services Limited trading as Barclays Partner Finance ('Clydesdale') responded to a claim he made under Section 75 of the Consumer Credit Act 1974 ('section 75').

Throughout his complaint, Mr U has been represented by a family member. But for ease, I'll just refer to Mr U.

What happened

In September 2016, Mr U ordered new windows and two new doors for his home, from a supplier who I'll call X. The installation of the doors and windows was included in the price X gave to Mr U. To pay for the cost of the doors, the windows and their installation, Mr U took out a fixed sum loan with Clydesdale.

A few months after X had finished the installation, Mr U complained to them about damage to the plaster on the walls in his house, and damage to a telephone cable. Mr U also said the silicone had failed around the windows and that the doors were faulty, because they let draughts into his home.

X agreed to make the repairs and offered Mr U £200 to pay for the replastering work. However, over the next few years, Mr U complained further to X, because the repair hadn't resolved all of his concerns. This led Mr U to make a section 75 claim to Clydesdale.

In May 2021, Mr U asked a third party to carry out an independent inspection of X's work. The third party suggested work to adjust and reseal four of the windows. The report also recommended adjustments to the hinges and locks on the kitchen and front doors. The third party told Mr U that it would cost £824.40 to carry out the repairs.

Clydesdale had paid Mr U £75 when he first raised his concerns with them. But, after the third party's report, they agreed to pay Mr U a further £100. Clydesdale also found that X had already paid Mr U £2,700 for the faults identified in the report. So, they didn't feel they should have to take any further steps to meet Mr U's section 75 claim.

Mr U didn't accept Clydesdale's response, so brought his complaint to us. In the meantime, Clydesdale organised for their own inspection report, which quoted around £1,700 for the repair. One of our investigators looked into Mr U's complaint and saw that Clydesdale had offered another payment, bringing the total Mr U had received to £3,125.

The investigator concluded that the installation wasn't what a reasonable person would say is satisfactory. He said Clydesdale should pay Mr U a further £150 for the distress and inconvenience caused. And that the new total was enough to meet the repair cost Mr U had told us about. The investigator also found that the other concerns Mr U had, such as damp and a fault with the guttering, wasn't a result of the installation by X.

Clydesdale accepted the investigator's findings, but Mr U didn't. He said he'd like the total cost of the windows, doors and installation refunded, because he would still be left with

faults. The investigator didn't change his conclusions, so Mr U's case has been passed to me to make a decision.

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.

Firstly though, I'm very aware I've summarised this complaint in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is at the heart of the matter here. That being, was the installation of the windows and doors of satisfactory quality?

If there's something I've not mentioned, I haven't ignored it. I've not commented on every individual detail. I've focussed on those that are central to me reaching what I think is the right outcome. This reflects the informal nature of our service as a free alternative to the courts.

I also acknowledge the very difficult personal circumstances which Mr U has told us about, whilst he has been dealing with this complaint. It must be a challenging time and I hope things start to get better for him soon.

Section 75

This case is about a fixed sum loan Mr U took out with Clydesdale, which is a regulated financial product. As such, we are able to consider complaints about it.

The relevant piece of legislation is section 75 of the Consumer Credit Act 1974. This provides protection for consumers for goods and services bought using credit. Under section 75, subject to certain criteria, consumers who use a fixed sum loan to pay for goods and services, have an equal claim against the finance provider, for any breach of contract or misrepresentation by the supplier.

In Mr U's case, he says section 75 means he has an equal claim against Clydesdale, because the installation of the doors and windows by X is of poor quality. So, with what I've said in mind, I agree that Mr U was able to ask Clydesdale to consider if he has a claim under section 75.

The Consumer Rights Act 2015 (CRA)

Under the CRA, there is an implied term written into contracts that goods supplied need to be of satisfactory quality, fit for their intended purpose and as described. It also says traders must perform the service with reasonable care and skill. The CRA sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met.

Mr U says that there are still problems with the windows and doors. He says the doors still let a draught through into his home and they stick in warm weather. Mr U also says the windows need to be sealed correctly and that he feels X is responsible for problems with damp and the guttering. To support what he says, Mr U has asked two third party companies to look at X's installation work, since it was completed. Mr U has also provided a report from a company who have looked at the damp in his home.

The first inspection report was completed in May 2021. I can see that the inspector found that four windows needed to be adjusted, resealed and have locks applied. Additionally, the inspector said that both doors installed by X needed adjusting. The cost of the repairs was

estimated by the inspector to be £824.40.

The second inspection report was carried out a few months later. In this report, the second inspector said that three windows and both doors needed adjusting and refitting to bring the installation up to standard. The report gives an estimate of £1,716 for the repairs.

As well as the two inspection reports, I've also considered photographs of the installation and the repairs X had completed, before Mr U complained to Clydesdale. Overall, I think the evidence shows that the installation of at least four windows and both doors was not of a standard that a reasonable person would say is of satisfactory quality. So, I think this means there was a breach of contract by X, which Mr U is able to hold Clydesdale responsible for.

The steps taken by Clydesdale

Where there's a breach of contract under a services contract, consumers have certain rights. They may have the right to repeat performance as well as the right to a price reduction. Consumers can also seek other remedies.

Repeat performance should be carried out within a reasonable amount of time and without significant inconvenience caused to the consumer. Consumers can ask for an appropriate price reduction if that doesn't happen, or if the repeat performance is impossible.

Mr U asked Clydesdale to consider refunding the entire cost of the doors, windows and the installation. I can see from the purchase contract Mr U had with X, that nine windows and two doors were supplied and installed. Given what Mr U, X, Clydesdale and the two reports say, on balance, I think this means that some of the installation was of satisfactory quality. It then follows that I don't think it would be fair for Clydesdale to refund all the repayments Mr U made under the fixed sum loan agreement.

I've also considered that X completed the installation, nearly five years before the first inspection report was carried out. And that the reports say some of the windows and a door needs refitting, rather than a brand new replacement.

Additionally, Mr U has explained that as well as the repair cost outlined in the reports, he's paid for some plastering and for the removal of blinds, so repair work can take place. He's also told us about an increase in heating costs, due to the poorly fitted doors and windows.

Clydesdale have shown us where Mr U has received £2,700 for the repairs and a further £425 in various stages during the complaint. The further payments seem to have been in recognition from X or Clydesdale, for where they could have done things better. This means Mr U has received a total of £3,125 for everything that has happened.

Having thought carefully about all the evidence, I think Mr U has already received an amount greater than the repair quotes from the inspection reports and the additional costs he has incurred. So, I don't think Clydesdale needs to increase the payment that Mr U has received for the repairs.

I acknowledge that Mr U has sent us details of an inspection into his concerns about the dampness in his home and some damage he says X caused to his guttering. But, on balance, I don't think that evidence is conclusive to mean Clydesdale should have a further responsibility to Mr U to pay for those repairs.

Taking everything into consideration, I think Clydesdale have treated this part of Mr U's section 75 claim fairly.

Clydesdale's further offer for distress and inconvenience

Clydesdale's records show that they organised an inspection of X's installation work a few months after Mr U had arranged his own inspection, in May 2021. I can see from the same records that Mr U first complained about X's repairs to the installation in June 2020. These reports ultimately guided Clydesdale and X to make a payment to Mr U.

However, I think Clydesdale caused a delay in organising a report to assess the quality of the installation. And this delay had an impact on Mr U, in a situation where he was already experiencing distress and inconvenience caused by X. I'm also mindful Mr U's claim was raised in the midst of the global pandemic and the difficulties this raised with everyone.

Clydesdale have since offered to pay Mr U a further £150, bringing the total awarded in this complaint to £3,275. In all the circumstances, I think the payment of the additional £150 for the distress and inconvenience caused to Mr U is fair and reasonable.

Putting things right

For these reasons Clydesdale Financial Services Limited trading as Barclays Partner Finance should pay Mr U £150 for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint and require Clydesdale Financial Services Limited trading as Barclays Partner Finance to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 12 January 2023.

Sam Wedderburn
Ombudsman