

The complaint

Mrs P complains that a kitchen she obtained through a fixed sum loan agreement with Clydesdale Financial Services Limited, trading as Barclays Partner Finance ("BPF") was not installed to a satisfactory quality. She also complains she was forced to sign the paperwork and that she hasn't been fully refunded for the cost of the report she obtained.

The complaint is brought on her behalf by her daughter who acts under a power of attorney for her mother. For ease, I will refer to everything as if it's been said and done by Mrs P.

What happened

Mrs P financed a new kitchen and installation through a fixed sum loan agreement with BPF. She complained to the supplier that she wasn't happy with the installation. When it didn't resolve her complaint to her satisfaction, she referred it to BPF.

The supplier inspected the kitchen in July 2019 and agreed to various repairs. But Mrs P didn't want any further involvement with the supplier. BPF said she should obtain two quotes from her choice of suppliers for it to consider. She said she would prefer a reduction in cost.

The supplier offered to refund £2,500 which Mrs P rejected. She asked for the finance to be written off. BPF didn't agree as the kitchen was fully functioning. Mrs P arranged and paid for her own report to be carried out, which concluded the installation was of poor quality. But it also covered matters which weren't included in the supply and installation contract. So BPF arranged for the Furniture and Home Improvement Ombudsman ("FHIO") to carry out an independent inspection covering the matters set out in the contract. Its report concluded that there were several items which needed to be rectified. The supplier offered to refund the installation costs in full - £3,820.66.

Mrs P referred her complaint to this service, saying the contract hadn't been complied with and there was a lengthy list of matters to be resolved. She wanted BPF to fully comply with the findings of the FHIO report.

Our investigator concluded that BPF's offer to either refund the installation costs of £3,820.66 or arrange for the repairs listed in the FHIO report to be carried out, was fair and reasonable. BPF had also paid her £250 for the distress and inconvenience caused; £50 to apologise for the language used in response to her claim; £15 for the cost of a chimney hood duct; and £500 towards the cost of the report Mrs P obtained. Our investigator thought this was fair. He also thought it was fair BPF had activated the finance because the kitchen was fully functioning. And that it was reasonable for BPF to require Mrs P to obtain two quotes if she didn't want the supplier to carry out the remedial repairs.

Mrs P didn't agree so the complaint was passed to me.

My provisional decision

I agreed with the conclusions of the investigator, but I set my findings out in a provisional decision to give Mrs P a last opportunity to decide which offer she preferred – a refund or repair, or to reject both.

I said:

Under section 75, if there's been a breach of contract by the retailer, Mrs P also has, subject to certain conditions, the right to make a claim against BPF, as the finance provider, for the breach. My role isn't to decide whether or not section 75 applies here. Rather, I'm required to decide what, if anything, BPF should do to resolve this complaint. When taking into account what's fair and reasonable, I'm required to take into account (amongst other things) any relevant law. Relevant law includes section 75.

Relevant law also includes the Consumer Rights Act 2015 ("CRA"). The CRA applies to contracts which supply goods and services to a consumer. It says that, under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory, fit for purpose and as described". And that under a contract to supply services, (in this case the fitting of the kitchen) the work "must be carried out with reasonable care and skill". To be considered as satisfactory, the CRA says the goods would need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

Was the kitchen of satisfactory quality and has it been fitted with reasonable care and skill?

The contract was for the supply and fitting of the kitchen. I'm satisfied both parties agree that the kitchen wasn't fitted with reasonable care and skill and there are a number of items, listed in the FHIO report, which need rectifying. When Mrs P referred her complaint to us, she said she wanted the items listed in the FHIO report fixing. I'm satisfied BPF has offered to pay for this – either by arranging for the supplier to carry out the repairs, or through a supplier chosen by Mrs P provided she obtain two estimates for the work.

But, as an alternative, it has offered to refund the installation costs of £3,820.66. Taking into account the one quote Mrs P has been able to obtain, this would cover the cost of the required repairs. I'm satisfied this would put her back in the position she'd be in if the kitchen had been fitted to a satisfactory standard. I appreciate Mrs P does not want the original supplier to carry out the work, for understandable reasons, and she's having difficulty obtaining the two quotes which BPF reasonably requires. So I think the offer to refund the installation costs is the preferable resolution here. Mrs P should make it clear which of the two alternative offers, if any, she wants to accept in response to this provisional decision.

I note BPF has already paid Mrs P £15 to reimburse her for the cost of a chimney hood duct kit.

The independent report

Mrs P arranged her own independent report. I can see BPF tried, unsuccessfully, to find out a bit more about the report Mrs P was arranging. I don't find that BPF advised Mrs P to arrange for the report or agreed to pay for it. But, bearing in mind

her relationship with the supplier had broken down, I don't find it unreasonable that she didn't have much trust in the outcome of its own inspection. It doesn't seem unreasonable that an independent inspection should have taken place and I think BPF should pay for this in full. We contacted BPF to ask it to reconsider this and it has now agreed to pay for the cost of the report. It's already paid £500, so it's agreed to pay Mrs P a further £260.

Damage to the property

Mrs P has mentioned damage to the property, and damage caused by a leak, on several occasions. She's been asked to provide evidence but hasn't provided any. In the absence of any evidence, I'm not persuaded BPF needs to compensate Mrs P for any damage.

The finance agreement

I'm satisfied that the fixed sum loan agreement was electronically signed by Mrs P. I'm not persuaded that she was forced to sign the paperwork and she's not provided any evidence to support this part of her complaint.

The agreement says:

"After we have accepted and signed the agreement and you have received the goods or services purchased, we will pay the loan amount to the retailer."

And that:

"Your first repayment date is one month from the date that we pay the loan to the retailer."

The loan was for the supply and fitting of the kitchen. Whilst the fitting wasn't completed to a satisfactory standard, it was supplied and fitted by around July 2019. The items which needed addressing did not affect the functioning of the kitchen. So I think it's fair that BPF activated the agreement when it did – in October 2019 – and that Mrs P was liable under the terms and conditions to make the monthly payments from November 2019.

Distress and inconvenience

This has clearly been a stressful experience for Mrs P. She should reasonably have expected her new kitchen to be fitted with minimal issues. I have considered the circumstances here very carefully and want to assure Mrs P that I have understood her vulnerabilities and how that may have increased the upset she was caused. BPF paid her £250 and I'm satisfied that is a fair amount in all the circumstances here.

I am also mindful of Mrs P's attorney's personal circumstances and I want to thank her for sharing some sensitive information with us, which can't have been easy and I'm sorry for the difficult time she's going through. But it is Mrs P, rather than her attorney, who is the eligible complainant here. My role requires me to follow the rules set out for this service by the Financial Conduct Authority and this means I can only order BPF to pay compensation to Mrs P, as the eligible complainant. So, whilst I appreciate the distress this situation has caused Mrs P's attorney, I can't order BPF to pay her any compensation.

BPF's records

Mrs P is concerned that BPF has recorded inaccurate information about her. BPF explained it has noted that it has been told Mrs P is a vulnerable customer. It asked for information to evidence her vulnerabilities, but it hasn't received this. So, in the circumstances, I don't think it's unreasonable that her account has been flagged as "unconfirmed vulnerable".

Mrs P said she wanted to accept the offer to refund the installation costs. But she said the cost of the independent report should be refunded in full.

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.

Mrs P has told us she would like to accept BPF's offer to refund the installation costs.

She says the cost of the independent report should be refunded in full. I agree. Unfortunately there was an error in my provisional decision. Barclays needs to pay Mrs P £760 (and not £260 as set out in my provisional decision). Barclays has already agreed to pay this amount.

My final decision

My final decision is that Clydesdale Financial Services Limited, trading as Barclays Partner Finance should:

1. Refund the installation costs of £3,820.66.
2. Pay Mrs P £760, to refund her for the cost of the report she obtained, having already paid her £500.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 5 August 2022.

Elizabeth Dawes
Ombudsman