

The complaint

Mr G complains that Clydesdale Financial Services Limited trading as Barclays Partner Finance ("BPF") has mishandled his claim under Section 75 of the Consumer Credit Act 1974 in respect of a conservatory and replacements windows and doors which were poorly installed.

What happened

The background to this complaint is well known to both parties and so I'm not going to set it out in full detail but rather summarise the key events.

In July 2017 Mr G arranged with a retailer for the supply and installation of a conservatory and replacement windows and doors. He entered into two fixed sum loans with BPF, one for just over £63,000 for the conservatory and the second for just over £50,500 for the windows and doors. Both loans were for the period of 120 months. These loans were to be activated once notes of satisfaction had been signed by Mr G after their supply and installation.

In September 2017 work commenced on building the conservatory. Mr G, using his own knowledge as a builder, said this was a poor decision as the installation of the windows and doors would be made more difficult with the conservatory in place and damage to his property would be likely.

In November 2017 work commenced on the installation of the windows and doors. The work took three days but there were some elements that were not completed, and others Mr G said hadn't been completed satisfactorily.

Mr G was asked to sign the notes of satisfaction by the retailer even though the works weren't completed as some items needed to be replaced. Mr G says he felt blackmailed by the fitters who put pressure on him to sign and told him that if he signed then all the work would be completed in 31 days. Feeling he had little choice Mr G says he signed. This allowed the loan agreement for the windows and doors to be activated.

Mr G was unhappy at the standard of the work on both the conservatory and the replacement windows and doors and in December 2017 he made a complaint to BPF. BPF opened a claim and arranged for Mr G and the retailer to liaise together in order to rectify any faults with the works.

Over the next three years Mr G and the retailer exchanged a number of fault-lists as to what work needed to be completed. The retailer and Mr G didn't reach full agreement as to what was unsatisfactory and needed remedial action. It was however agreed that the Glass and Glazing Federation would inspect the installations to ensure the standard of work was satisfactory once all the work was completed.

Mr G complained to the retailer that during the various installation work some of his possessions had been damaged. The retailer asked him to obtain invoices for the items that needed replacement.

Although the loan agreement for the windows and doors was activated by BPF, it didn't activate the loan agreement for the conservatory, and this has remained the case.

In June 2020, the retailer went into administration. BPF then appointed a new third-party company to manage the claims so they could progress.

BPF then requested a second third-party company to get involved and it was arranged for a chartered surveyor to inspect the work at Mr G's home. Mr G provided information as to the issues that he believed were outstanding. Provisional appointments for the inspection were made. However, these visits didn't then go ahead.

In June 2021, BPF decided to agree Mr G's claim in respect of the conservatory. It agreed to reimburse his deposit in full, cancel the loan agreement so it could never be activated and asked Mr G to choose either for BPF to arrange for the conservatory to be taken down at no cost to himself or source his own contractor to undertake this work and BPF would cover the cost.

BPF also accepted that its handling of Mr G's claims in respect of the conservatory and the windows and doors had caused him distress and confusion. It offered him £500 compensation to cover the impact this had had on him.

In respect of the remaining claim for the windows and doors, BPF asked Mr G in July 2021 to supply a quote in respect of the work that was still outstanding. It also informed Mr G that both the third-party companies it had requested get involved could no longer take on any further work in respect of his claims and had removed themselves from the investigation.

By September 2021 Mr G had accepted each of the elements offered as a settlement to the problems that had arisen with the conservatory. However, he was unhappy at the request he obtained a quote about the outstanding remedial work for the windows and doors.

In October 2021 BPF confirmed that Mr G's claim the conservatory had been agreed but said that his claim in respect of the windows and doors had now been closed because there wasn't enough information as to what was still outstanding and what the cost of that work would be as he hadn't obtained the required quote.

Mr G complained to BPF that it had acted unfairly by treating his claims as two separate matters. He said it wasn't fair for BPF to treat his claim for the windows and doors differently to his claim about the conservatory. He said the conservatory claim had been settled without the need for a quote and he believed BPF was unfairly imposing conditions in respect of the windows and doors claim. He said BPF hadn't responded as it should have to his emails and phone calls about his claims which had caused him further distress and inconvenience. Mr G said that due to his health conditions which he had informed BPF about, he had found it difficult to cope with the situation.

BPF has, between January 2021 and January 2022, issued nine final response letters in respect of Mr G's complaints about the handling of his claims under Section 75. In these final response letters, BPF has accepted Mr G suffered unnecessary distress and inconvenience through its handling of his claims and complaints and it paid him a total amount of £1,600 as compensation for the distress and inconvenience caused to him for the way it has handled his claims.

However, BPF has declined to reimburse Mr G for any of his possessions which he said had been damaged during the installations. BPF said it hadn't received any receipts or invoices for these losses. I

BPF has also confirmed that it still required Mr G to provide the one quote as to the outstanding work and the cost of that work in regard to the installation of the windows and doors. And until that quote was provided, BPF said it wouldn't be able to issue further correspondence to Mr G about his claim.

Mr G was unhappy at BPF's final decision that this quote was required and complained to this service. He also said BPF hadn't provided him with a good service particularly in view of his health condition.

Our investigator recommended that Mr G's complaint should be partially upheld in that she thought it had been unfair for BPF to have declined to reimburse him for some of the items which had been damaged by the retailer during the installation of the conservatory, windows and doors. But in respect of the other issues raised by Mr G, our investigator said she thought BPF was acting fairly with its requirement for one quote and that it had acted fairly when it had paid compensation in recognition for its failures in the service provided to Mr G.

In regard to the request for the one quote as to the outstanding issues with the windows and doors, our investigator said she thought BPF had acted fairly by treating Mr G's Section 75 claims for the conservatory and the windows and doors differently. She said the financial agreement for the conservatory had never been activated so it was reasonable to assume that the agreed works either hadn't been fully completed or hadn't been completed satisfactorily. Our investigator said this differed to the installation of the windows and doors, as there had been a number of inspections carried out by the retailer before they went into liquidation which showed various items had been properly fitted and that some of the reported faults were minor in nature.

Our investigator said that although BPF had been able to engage two third-party companies to assist with investigating the quality of the installations, these companies had later withdrawn as they couldn't take on any further work. She said that in these circumstances she didn't think BPF was acting unfairly by asking Mr G to provide a quote as to what work was still required on the windows and doors.

Our investigator said that BPF had acknowledged it hadn't provided the service Mr G reasonably could have expected. It had provided £1,600 in total as compensation for the manner in which it had dealt with his claims. She said she thought this amount was fair and wasn't going to ask BPF to do increase the compensation.

BPF agreed with our investigator's view, but Mr G disagreed. He said he was concerned that the surveyor engaged by BPF to undertake an inspection had said he was willing to attend his home only for BPF to say they weren't able to come a short time later. Mr G said he thought this could be because the cost of such an inspection was too high for BPF.

Mr G also says that BPF has set a precedent in the way his section 75 claims should proceed by the way it had settled the conservatory claim where there had been no need for a quote as to the outstanding work. He said BPF should now settle the windows and doors claim in the same way by providing him with a direct refund.

Mr G says that BPF has caused him further unnecessary distress and confusion by dealing with the conservatory and the windows and doors installation as two different complaints as he says these arise from one event. Mr G says BPF should pay additional compensation for the impact this has had on him.

As the parties were unable to reach an agreement the complaint has been passed to me.

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.

As the parties are aware, the evidence and views provided for this complaint have been extensive. And while I don't criticise that as I understand both the importance this matter has for Mr G and his methodical approach, I don't mean any disrespect to either him or BPF if I don't deal with everything that's been raised.

Mr G's Section 75 claim

I've seen that Mr G arranged for the same retailer to supply and install a new conservatory and replacement windows and doors to his home. While I can appreciate why Mr G views this as one agreement because it was all agreed at the same time, he did enter into two separate credit agreements, one for the cost of the conservatory and the second for the costs of the windows and doors. I note Mr G says he had no choice about that.

I've seen that the conservatory installation started first followed by the installation of the windows and doors. The conservatory wasn't finished when Mr G signed the satisfaction note for the windows and doors. Mr G says he signed this note only because he felt pressured to do so as the fitters promised to complete all the works and correct any issues within the next 31 days. However, Mr G says the fitters didn't keep to this promise. The effect of signing the satisfaction note was that BPF released the funds and activated the fixed sum loan agreement for the windows and doors.

Mr G contacted BPF in December 2017 to complain about the standard of the installation of both the conservatory and the windows and doors. On receipt of his complaint BPF appears to have opened one claim under section 75 for him as it used only one reference number.

Section 75 gives a consumer, in certain circumstances, equal right to claim a refund against the supplier of goods or services and the provider of credit if there has been a misrepresentation or breach of contract by the supplier. And my role when looking at Mr G's complaint is not to decide his section 75 claim but whether BPF has handled his claim fairly and reasonably.

Breach of contract

I don't think it's disputed that the works at Mr G's home didn't go as planned. I think it's fair to say BPF has accepted there were issues with the conservatory and also with the windows and doors (although the extent of the issues are currently unknown). So, I don't think I need to decide whether there had been a breach of the contract here. BPF has agreed that the works undertaken on Mr G's home were not carried out to a satisfactory standard and, in light of the amount of time it has taken, they also weren't carried out in a reasonable period of time.

BPF's handling of Mr G's Section 75 claim

BPF at first asked Mr G and the retailer to liaise together to resolve the issues with the installation works. I think this was reasonable as in accordance with the Consumer Rights Act 2015 the retailer has the right to carry out repairs. However, things appear to have made

very slow progress and following three and half years of contact, the retailer went into administration. This meant it was for BPF to seek a resolution to the issues raised by Mr G.

Looking at the documentation provided, I've seen that the retailer drew up a number of fault rectification lists on which Mr G was able to comment. The retailer then started to slowly work through the items on those lists. It was also agreed with the retailer that once the faults were considered to have been rectified that an independent inspection would be undertaken to assure that the work had been of a reasonable standard. These fault rectifications lists although numerous (and I note Mr G says there are still at least 28 faults remaining) indicate that some of the issues with the windows and doors were minor in nature. And I think it's fair to think that when looking at those lists some of the installation for the windows and doors had been undertaken to an acceptable standard.

A. Activating the credit agreement for the windows and doors

Mr G is unhappy that BPF activated the fixed sum loan he had entered into for the windows and doors. I've seen that it hasn't activated the loan for the conservatory. However, Mr G agrees he signed the satisfaction note for the windows and doors in or around November 2017. And while I appreciate Mr G felt forced to do so, I don't think it was unreasonable for BPF to act on receipt of that note and release the funds to the retailer. This was in accordance with the terms and conditions of the loan agreement.

I've also seen that BPF agreed to put a hold on Mr G's repayments of that loan for three months and to refund one payment he had made while he tried to resolve his concerns with the retailer. So, in respect of providing the funds to the retailer for the windows and doors I think BPF has acted fairly.

B. Appointing two third-party companies

BPF stepped in when the retailer went into administration and arranged for two third-party companies to become involved with the view that there would be inspections of the works undertaken which included an inspection of the conservatory.

Mr G was contacted by a chartered surveyor from one of the third-party, there was a lengthy telephone conversation and information was passed between them about the installation. I've seen that a date was set for the surveyor to visit. Unfortunately, prior to this visit both of the third-party companies announced they were no longer in a position to take on Mr G's work. And while I can appreciate Mr G's concern this was in fact a decision made by BPF, I haven't seen any evidence that would suggest that. Following the pandemic, I think many companies have struggled to meet orders/planned works so I don't think this situation is necessarily unusual or suspicious in respect of BPF's actions. I'm satisfied from what I have seen that BPF wasn't involved in the decision of the two third-party companies to withdraw.

C. Settling the conservatory claim

Following the withdrawal of the third-party companies, BPF made the decision to offer a full settlement for the conservatory. This included reimbursement of Mr G's deposit, cancelling the credit agreement (which would insure it could never be activated) and either for Mr G to arrange for the conservatory to be taken down at no cost to himself or for BPF to make those arrangements again at no cost to Mr G.

BPF also offered Mr G £1,600 as compensation for the way it had handled his claims and complaints regarding the conservatory and the windows and doors.

Although Mr G has accepted this settlement in respect of the conservatory, he says the

claim for the windows and doors should be handled in the same way and his claims should have been considered as one rather than two separate matters.

I appreciate Mr G's view that the goalposts have been moved for him in respect of his claim about the windows and doors but, looking at all the evidence presented, I don't think BPF acted unfairly in seeking him to provide this quote and treating the claim for the conservatory separately from that for the windows and doors.

Firstly, I think it's an important consideration that there were two fixed sum loans entered into by Mr G. And although he has queried the need for that, I don't think the existence of the two credit agreements in these circumstances was unusual or unreasonable. By there being two credit agreements in existence then BPF was entitled to treat Mr G's claims separately under section 75.

Secondly, the conservatory agreement has never been activated, unlike the credit agreement for the windows and doors. This means was BPF was reasonably able to conclude that the installation of the conservatory had never been considered satisfactory and so it was fair for it to offer to end that agreement.

However, I accept that the use of one reference number for Mr G's claim by BPF would have given him the impression that BPF was approaching this as one matter and this would have led to confusion for him when a second reference number was then added for the windows and doors. But, despite that, I think BPF actions here were reasonable. And it has agreed compensation for the inconvenience and distress due to the confusion and delays its handling of Mr G's claim has caused him.

D. Are BPF's actions over the conservatory binding for a decision about the windows and doors?

When a consumer makes a claim under section 75 then it is usual for them to be required to provide proof in respect of that claim. Here, there were to be inspections of the works undertaken when installing the conservatory and also in respect of the windows and doors installation. As set out above, these didn't proceed.

On review, BPF decided they had sufficient evidence to cancel the credit agreement for the conservatory and put Mr G back in the position he would have been in had the breach of contract not occurred, that is, repay him his deposit and cover the cost of dismantling it. But looking at the evidence in respect of the quality of the fitting the windows and doors, I think the position is not nearly as clear.

As set out above, some of the work on the windows and doors appears to have been undertaken to a satisfactory standard. I also think it's fair to say that some of the issues raised by Mr G are minor in nature. So, I think a report, or an inspection and quote is a necessary requirement to ascertain what work is actually still required to bring the installation of the doors and windows up to a satisfactory standard. I think in these circumstances it would be unreasonable for the credit agreement to be cancelled in full and Mr G to receive a full reimbursement. I think this would be likely to put him in a better position than he was before the breach of contract and that would be unfair.

So, I don't think BPF was tying its hands as to how it could proceed resolving the issue with the windows and doors when it agreed to cancel the fixed sum loan agreement for the conservatory. I think BPF acted reasonably by taking two different actions here.

E. Fairness of asking Mr G to obtain the necessary evidence

BPF has asked Mr G to supply one quote setting out the work that is still outstanding in regard to the windows and doors. The usual request is for at least two such quotes and I've also seen that BPF has only made this request when its own arrangements didn't work out. While I appreciate Mr G has health conditions, I don't think this request is unfair on him. I've seen he has played an active role in past inspections so I think he would be able to give instructions to a firm to undertake such an inspection. However, if there was a cost involved in a company providing a quote, then I would ask BPF to cover that.

So, I think BPF has acted fairly in settling the conservatory claim under section 75 and requesting Mr G to provide further information before proceeding with his claim for the windows and doors.

Compensation

Mr G says he believes further compensation would be fair due to BPF's decision to only conclude his claim in respect of the conservatory. But for the reasons given above I'm satisfied it hasn't acted fairly in reaching that conclusion.

I agree Mr G hasn't received the service he should have reasonably been able to expect from BPF. I've also seen that his health condition would have led him to find all of this very distressing. However, BPF has paid a total of £1,600 to Mr G as compensation for its handling of his claims and so has recognised it had failed Mr G at times when dealing with his case.

I appreciate this matter has taken a considerable amount of time and as yet is still not fully resolved. But I accept that some of the delays were outside of BPF's control though some weren't, such as not returning calls when they said they would be or not answering his correspondence. I think the compensation paid to Mr G has been fair and reasonable and I won't ask BPF to increase that.

Consequential losses

Mr G complained to the retailer that its workers had damaged some of his property while undertaking the installations. The retailer asked Mr G to provide receipts for the items that needed replacement and agreed to pay him £323.44 to cover various items. I've seen that this payment was not then made because Mr G's account had an outstanding balance at the time. The retailer then went into administration and this payment was never made.

Mr G has requested that he be reimbursed for other items in addition to those the retailer had agreed to pay for, but I've not seen that there is any evidence the retailer had accepted responsibility for these additional items. And without that evidence, I think it would be unfair for me to ask BPF to reimburse Mr G for all the things he says were damaged by the installation of the conservatory and windows and doors.

However, I think it would be fair for BPF to pay Mr G the original amount that had been agreed by the retailer and I've seen that BPF has agreed to do so.

For the reasons set out above, and I'm sorry this will be of disappointment to Mr G, I'm not going to uphold his complaint that BPF should settle his claim about the installation of the windows and doors in the same way it has resolved his claim about the conservatory. But I agree BPF should pay his claim for additional damages that the retailer had agreed to pay.

Putting things right

I'm asking BPF to do the following:

- Pay Mr G £323.44 for the costs of the consequential losses that the retailer agreed to reimburse him together with interest at the annual rate of 8% from the date the retailer had agreed to pay (March 2018) until the date of settlement.

I'm also asking BPF that should the company requested by Mr G to provide a quote for the rectification work for the windows and doors charge a fee for the provision of that quote then it will reimburse that amount to Mr G once provided with an invoice. This will not apply if the company operates a system of refunding the money if subsequently awarded the contract.

My final decision

For the reasons set out above I'm partially upholding Mr G's complaint. I'm asking Clydesdale Financial Services Limited trading as Barclays Partner Finance to do the following:

- Pay Mr G £323.44 for the costs of the consequential losses that the retailer agreed to reimburse him together with interest at the annual rate of 8% from the date the retailer had agreed to pay (March 2018) until the date of settlement.

I'm also asking Clydesdale Financial Services Limited trading as Barclays Partner Finance that should the company requested by Mr G to provide a quote for the rectification work for the windows and doors charge a fee for the provision of that quote, then it will reimburse that amount to Mr G once provided with an invoice. This will not apply if the company operates a system of refunding the money if subsequently awarded the contract.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 18 July 2023.

Jocelyn Griffith
Ombudsman