

## **The complaint**

Mr B is unhappy about the way Clydesdale Financial Services Limited, trading as Barclays Partner Finance (who I'll call "BPF") have offered to resolve a claim he made to them under section 75 of the Consumer Credit Act 1974 ("section 75").

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint BPF, but I think the fitting costs suggested by Mr B are reasonable. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

When something goes wrong and the payment was made with a fixed sum loan, as is the case here, it might be possible to make a section 75 claim. This section of the Consumer Credit Act (1974) says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier.

I'm not determining the outcome of a claim that a party might have under section 75. I take section 75 into account when I think about what's a fair way to resolve the complaint, but I don't have to reach the same view as, for example, a court might reach when considering breach of contract or misrepresentation.

From what I can see, all the necessary criteria for a claim to be made under section 75 have been met.

There's no longer a dispute that there's been a breach of contract here as the kitchen has been of unsatisfactory quality. The merchant has agreed to allow Mr B to reject the goods and to provide a refund, and the credit agreement will be cancelled. Mr B is happy with that proposal. However, Mr B will incur costs to fit a new kitchen and whilst there's general agreement that these costs will be incurred as a consequence of the merchant's breach of contract; the parties don't agree about how much the refit will cost.

BPF have offered £2,000 but I don't think that's sufficient. I've considered the quote provided by Mr B's supplier. They are the supplier who fitted the original kitchen and as Mr B has an existing arrangement with them, clearly trusts their workmanship, and has been waiting a long time to have this issue resolved, through no fault of his own, I think it's fair to use them rather than look for alternative quotations.

Mr B's preferred supplier has been prepared to reduce their quotation to £4,480 + VAT. The work will entail the removal of the current kitchen and replacement of the kitchen in the utility and kitchen areas. I understand that the merchant has already offered £250 towards the cost of removing the kitchen but given the care needed to limit damage, I would agree with Mr B that £250 is likely to be insufficient. I've considered the kitchen plan and the detailed breakdown of the work required, that is provided in the quotation. Taking all of those issues into account, I don't think the charges are unreasonable.

### **Putting things right**

I think it would limit any inconvenience for Mr B if BPF paid Mr B's chosen supplier for the refit directly.

### **My final decision**

I uphold this complaint and tell Clydesdale Financial Services Limited to pay Mr B's chosen supplier £4,480 + VAT on provision of their invoice to complete the removal and refitting of the faulty kitchen.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 June 2023.

Phillip McMahon  
**Ombudsman**