

The complaint

Mr T complains that Clydesdale Financial Services Limited (trading as Barclays Partner Finance) (BPF) wrongly activated a loan account and damaged his credit record.

Mr T is represented by a family member but I'll refer to everything that's been said on his behalf as if Mr T had said this himself, to keep things simple.

What happened

In 2021 Mr T took out a fixed sum loan with BPF to fund the supply and installation of a new kitchen. There were numerous problems with the supply of both goods and services and it took over a year to sort things out with the third party supplier (that I'll call W). In July 2022 Mr T received some correspondence from BPF about late payments. He thinks it was wrong of BPF to activate the loan and pay W when it knew about the ongoing dispute as Mr T had raised a related claim against BPF, under section 75 of the Consumer Credit Act 1974.

The dispute with W was settled towards the end of 2022 - W carried out various rectification works and paid compensation – but Mr T says his credit record was adversely affected by BPF's actions. Several lenders, he'd been with for some years, reduced the credit limits on his accounts significantly and he thinks this is due to information BPF that recorded on his credit file.

Mr T complained to BPF and it said (in summary) under the loan terms and conditions W could be paid at any stage after the agreement was signed and the loan was activated after W confirmed that goods and services contracted for had been provided. Mr T was notified of the activation and loan repayments then fell due that weren't made in time and it wasn't wrong to record this information on his credit file. BPF acknowledged the dispute with W had been resolved and agreed to remove any adverse information from Mr T's credit record, as a goodwill gesture.

Mr T remained unhappy and he asked our service to look into what happened. One of our investigators considered the evidence and she didn't recommend the complaint should be upheld. She was satisfied that BPF activated the loan according to the relevant terms and conditions and she didn't think there was enough evidence to show that Mr T's credit rating was reduced due to something BPF did wrong.

Mr T didn't think that was fair. He feels the investigator based her view solely on the loan contract and didn't take all of the evidence into account. He asked for an ombudsman to review the matter and said (in summary):-

- he's seen one copy of the loan agreement which indicates it was electronically signed on 19 August 2021 – 15 days after W accepted the order;
- W confirmed that payment wasn't due until the work was signed off as complete - which didn't happen until October 2022 - yet BPF paid W months earlier;
- BPF was aware of the ongoing dispute and should have contacted Mr T before activating the loan and making the payment;
- In mid October 2022, BPF said the loan account was on hold for 30 days and it

would not request payment during this time but it went on to take steps to recover payment; and

- BPF has acknowledged that its actions adversely impacted Mr T's credit standing - in correspondence sent in early February 2023, BPF said it was sorry to hear that his credit record was affected by information BPF reported.

Having considered the available evidence, I wasn't minded to uphold Mr T's complaint. My reasons weren't quite the same as the investigator's however and I thought it was fair to give the parties the chance to see my provisional findings and respond before I made my final decision. I issued a provisional decision on 30 November 2023. I've set out what I decided provisionally (and why) below (I italicise) and this forms part of my final decision.

My provisional decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I can see that Mr T has strong feelings about what happened here. He's gone to some trouble to provide detailed submissions and I want to assure him, if I don't address every point that he's raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. I'm going to concentrate however on what I think is relevant and material to reaching a fair and reasonable outcome. The rules of the Financial Ombudsman Service allow me to do this and it reflects the informal nature of our service, which is a free (for consumers) alternative to the courts.

I'm sorry to hear that Mr T has been ill and I have sympathy for the difficulties that he and his family have experienced during the course of this kitchen installation. In light of everything that's gone on, I want to be clear at the outset that I'm considering the complaint Mr T made to BPF about activating the loan and reporting information on his credit record in this decision. It's not within my remit to look at the actions of W - or at BPF, in terms of the section 75 claim.

I think the crux of Mr T's complaint is two-fold – he considers it was wrong of BPF to pay out loan funds to W in June 2022 because he hadn't confirmed that the kitchen was complete at that stage and he thinks it was wrong of BPF to report information on his credit record which adversely affected his credit rating.

Activating the loan

I've seen a copy of the loan agreement which is dated 19 August 2021 and signed electronically by BPF. I understand Mr T has a manual copy with a different date but I don't think that's material. There's no suggestion that the loan terms are different between the two documents, for example, or any indication that this isn't the loan agreement that Mr T used to fund the relevant purchase of goods and services.

I'm satisfied the loan agreement says (reasonably prominently) opposite the question "how and when the credit would be provided" - "we will pay the amount of the loan to the retailer once we approve the loan and receive the signed agreement or when the supplier has supplied the goods or services to you, if this is later". From the evidence I've got, it looks as if BPF didn't activate the loan until W called for payment – which didn't happen until June 2022, because of the ongoing dispute.

I've seen some details of the work and goods that were the subject of this dispute and the efforts made between the parties to resolve things. By May 2022 the kitchen seems to have been fitted and W had made multiple visits to rectify issues and provided several goodwill gestures and offers of compensation. BPF considered the resolution on offer at this point was reasonable and closed the section 75 complaint. I appreciate there were still some outstanding issues – some items still needed to be re-aligned or replaced and compensation hadn't been agreed - but it appears the goods and services had been supplied and W clearly considered it was entitled to be paid.

I realise Mr T doesn't agree. He says the work wasn't finally completed until a few months later - and paperwork I've seen suggests that the kitchen was finally "signed off" in September 2022 with the final settlement agreed by early December the same year. I accept some building contracts (and similar agreements) require completion to be "certified" in a specific way before payment can be made but I've seen nothing to show that was the case here. The evidence I've got suggests that W had supplied goods and services by the time the loan was activated in June 2022. And, taking everything I've seen so far into account, I can't fairly find it was wrong of BPF to make the payment to W and ask Mr T to start repaying the loan.

Mr T's credit record

I haven't seen Mr T's credit file from the relevant time. Our investigator asked for this to be supplied, and I understand Mr T contacted relevant credit reference agencies, but he's been unable to provide this. On the current evidence, I can't be certain why Mr T's credit rating was reduced. I accept this could have been due to late payments BPF reported but I don't think I need to reach a firm conclusion about that and I'll explain why.

For me to uphold this part of Mr T's complaint, I'd have to be satisfied that BPF did something wrong which caused Mr T to lose out. For the reasons I've explained above, I don't think it was wrong of BPF to activate the loan when it did and I'm satisfied that BPF notified Mr T that repayments were due. I realise Mr T feels he shouldn't have been required to make these payments at this time – because he was still in dispute with W - but I'm afraid that doesn't mean BPF was required to put the loan on hold.

Mr T says B sent him a letter in mid-October 2022 stating that his account was on hold and he didn't make payments as a result. I've seen a copy of that letter which seems to have been sent after a family member got in touch with BPF on Mr T's behalf about calls chasing payment. I'm satisfied that BPF said it would put the account on hold for 30 days and it wouldn't contact Mr T requesting payment during this time. The letter went on to ask Mr T to get in touch by 8 November 2022 - so an appropriate repayment plan could be agreed - and the hold would be removed if BPF didn't hear from him by 11 November 2022. I think it was reasonable of BPF to stop chasing arrears for a time in this situation but that doesn't mean Mr T was no longer liable for the repayments. It looks as if he didn't agree a repayment plan and BPF issued a default notice on or about 11 November 2022 (which is required in certain circumstances under relevant legislation).

BPF was entitled to provide information about the loan to credit reference agencies (CRAs) - under the terms of the loan agreement Mr T signed – and it's obliged to report such information accurately. I'm satisfied that several loan repayments had fallen due and weren't made by this stage so I can't fairly find BPF did something wrong. BPF subsequently agreed to remove the adverse information reported, as a goodwill gesture. I think that sounds fair but, for the reasons I've explained above, I can't fairly find it was wrong of BPF to report this information in the first place.

In light of these provisional conclusions, I'm unable to hold BPF responsible for any associated loss and I can't reasonably require BPF to compensate Mr T or do anything further.

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 invited the parties to consider my provisional findings and let me have any further comments (or evidence that I haven't seen before) by 14 December 2023. I said I'd consider all the evidence available after that and make my final decision.

Both parties have now responded. BPF accepted my provisional findings and Mr T doesn't agree. He provided a detailed response across several emails and says, in summary:-

- he wants to know why he wasn't given a copy of the finance offer when the kitchen order was placed;
- W told him no payment was required (aside from the initial deposit) until the kitchen was completed to his satisfaction and he signed off on it – and this was confirmed in an email from W s(in mid-Nov 2021) and verbally by a different employee;
- the kitchen was delivered and installation started in September 2021 but there were endless problems and he was assured that W wouldn't be paid until the kitchen was signed off so he continued to try and resolve things with W;
- the kitchen wasn't finished when the loan was activated and hadn't been signed off, BPF knew that and it should have listened to him as the customer and not W;
- BPF agreed (in August) to put account on hold until November 2022 - when direct debits would resume and arrears would need to be paid - and that's what happened, the direct debit started 17th November and he paid off all arrears the next day;
- it was unfair of BPF to report adverse information to CRAs which had (and continues to have) a negative impact on his credit record when he's never had financial problems;
- he didn't say he wouldn't make payments due, he considered he wasn't liable until the kitchen was signed off as complete - as confirmed when he placed the order and later by W, both verbally and in writing; and
- he's also unhappy that compensation W paid was refunded direct instead of applied to reduce the loan.

I'd like to thank the parties for their submissions. I want to assure Mr T that I've considered what he said carefully. I think he's raised some of these points before and I've dealt with them already in my provisional findings. I'm afraid nothing that's been said or sent to us since has persuaded me to change my mind.

For the reasons I've given already, I'm unable to reasonably find it was wrong of BPF to activate the loan and report to CRAs in the way that it did here. I realise Mr T feels strongly that it was unfair of W to seek payment when he hadn't signed off on the kitchen as complete. As I said above however, there's no requirement in the finance agreement for any formal certification of completion. I appreciate there were still some outstanding issues when the loan was activated but it looks as if the goods and services had been supplied.

I can't be certain what was said when Mr T made the decision to order this kitchen or why he wasn't given sight of the loan terms when he placed the order. I'm satisfied he received a copy of the finance agreement not long after however and, if he was unhappy with the terms - or these didn't reflect what he was told by W at the point of sale – I think it would have been

reasonable to say so at the time. I've seen nothing to suggest that Mr T raised any objections at the relevant time - and I think he's unlikely to have acted any differently if he'd seen the loan agreement on the day he placed the order.

Mr T says W assured him, more than once, after he placed the order and took out the finance that payment would not be taken until he signed off on completion. Again, I can't be certain what was said but, even if I were to accept that W provided this assurance as Mr T suggests, I'm unable to hold BPF responsible for statements made by W after the point of sale.

It's perhaps worth reminding the parties that I'm considering Mr T's complaint against BPF about the loan activation and the reporting of information to CRAs in this decision. It's not within my remit to determine his section 75 claim against BPF - or his action against W. It follows, I can't fairly hold BPF responsible for the method used by W to pay compensation.

I realise Mr T feels he shouldn't have been required to repay the finance when he was still in dispute with W but I'm afraid that doesn't mean BPF was required to put the loan on hold. I think it was reasonable of BPF to stop chasing arrears when it did but I'm satisfied that Mr T remained liable for repayments that weren't made when they fell due and I can't fairly find it was wrong of BPF to report this on his credit file. I haven't seen a copy of Mr T's credit file but BPF says it has removed the adverse information reported so I'm unsure why this would still be having a negative impact on his credit standing. If Mr T remains concerned about that, he may find it helpful to seek advice - and our investigator can provide more information about free sources of such advice if he'd like this.

For the reasons set out above, I can't reasonably require BPF to compensate Mr T or do anything further. I realise this decision is likely to come as a disappointment to Mr T and I'm sorry if he feels let down. He's not obliged to accept what I've said however, in which case it remains open to him to pursue the matter by any other means available.

My final decision

My decision is I am unable to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 15 January 2024.

Claire Jackson
Ombudsman