

## The complaint

Ms S complains about the outcome of a claim she made under s.75 of the Consumer Credit Act 1974 (CCA) to Propensio Finance Limited (Propensio).

## What happened

In July 2023, Ms S purchased spray foam insulation from a company I'll refer to as 'V'. The total purchase price was £3,913.73 and Ms S paid using a fixed sum loan provided by Propensio. Under the terms of the loan, Ms S was required to make 120 monthly payments of £69.14 to repay it. The spray foam was installed in October 2023.

Miss S says that sometime later she became aware of potential issues with having spray foam installed. She therefore arranged for a third party that I'll call 'H', to carry out an inspection on the spray foam. H provided a report and videos that advised the spray foam needed to be removed, as there is a real risk of timbers rotting and potential that rot has already set in some places. In summary it said:

- The spray foam had been applied directly to the roof felt and plasterboard
- Moisture levels in the timber rafters exceeded 20% content in places
- Water has built up between the foam and felt and is being absorbed by the timbers
- All ventilation had been blocked with the plasterboard sodden
- Wood lice had been seen indicating damp conditions
- Many gable rafters have been encapsulated by foam and are increasing the risk of moisture content

Given H's findings and because V was no longer trading, Ms S contacted Propensio to complain. Ms S explained she had been quoted £4,000 for the removal of the spray foam and wanted it removed as soon as possible to prevent possible further damage.

Propensio escalated the complaint to the broker of the finance agreement for it to investigate. The broker responded on 3 April 2025 and said H wasn't registered by the Royal Institution of Chartered Surveyors (RICS). Therefore, H didn't have the necessary qualifications to provide a properly informed opinion on the installation of Ms S's spray foam.

Regarding the findings H had made, the broker said the 77.2% moisture reading hadn't been substantiated with photographic evidence. The broker added that H's videos showed it hadn't taken the moisture reading correctly. Regarding the findings on the blocked ventilation by the spray foam, the broker said H had incorrectly referred to the requirements of a "cold roof". It was explained that Ms S installation is categorised as a "warm roof" and this should have crossflow ventilation. Lastly the broker added that it was correct and in line with the BBA Agrément certificate for spray foam to have been applied directly to the roofing felt and plasterboard.

A few days later Propensio issued its final response which referred to the brokers findings and said that given these, it wasn't able to uphold Ms S complaint. Ms S therefore referred the matter to the Financial Ombudsman Service. One of our investigators considered the complaint. They said under s.75 of the CCA Propensio was responsible for any misrepresentation or breach of contract by V. Regarding misrepresentation, the investigator

didn't feel there was sufficient evidence for a successful claim. However, they did feel a breach of contract had occurred.

They said that H's report and the videos it had provided evidenced the spray foam being applied to the party and gable end walls which extended down to the eaves in the front and rear of the property. The investigator referred to section 4.3 of the BBA Agrément certificate which details where the product can be used as installation and said there's no indication that the spray foam is suitable for installing against breeze block gable walls and the certificate doesn't provide provision for the product to be applied to both rafter and ceiling level.

The investigator also added that as the previous fibreglass insulation had been left in place, so Ms S' roof was neither a "cold" or "warm" roof, but a "hybrid" one. They went on to say a "hybrid roof" must be well ventilated and H's report/videos concluded and showed the ventilation had been blocked. In addition, they said the broker had explained this was correct given the type of "warm" installation Ms S was meant to receive.

Given this the investigator recommended Propensio should end Ms S' loan agreement with nothing further to pay, unwind the agreement and remove any adverse information it may have recorded in relation to the loan, refund all payments made towards the cost of the spray foam, add 8% simple interest from when these payments were made until date of settlement and lastly cover the cost of the spray foams removal.

In response Propensio asked the broker for further information. The broker provided a technical data sheet, a condensation report from the time of the installation and provided additional comments in response to the investigator's findings. In summary the broker said while the BBA Agrément certificate doesn't explicitly reference gable wall application, the manufacturers technical data sheet says its main application is insulation in building envelopes such as interior walls. Therefore, as gable walls are classified as interior walls, the product is suitable to use on them.

Regarding the retained fibreglass insulation, the broker said that while this suggests a "hybrid roof", the condensation risk analysis confirms that by installing the spray foam the roof structure will be compliant. In response to the blocked ventilation and "hybrid roof" construction the broker acknowledged this requires careful consideration of ventilation to prevent condensation. The broker said while the BBA Agrément certificate supports "cold" and "warm" roofs, it doesn't address hybrid configurations. Therefore, the broker referred to section 3.14 of the Scottish Building standings as providing relevant guidance. In brief this states that improved insulation can increase the risk of condensation, but sealing up air leaks improves comfort.

The investigator didn't believe this changed the outcome. They added that the BBA Agrément certificate specifically does not set out that spray foam can be applied at both rafter and ceiling level. The requirement is for one or the other. They added that it's not just that the spray foam has been applied to the gable walls, but that has occurred alongside it being added to the ceiling and rafters alongside the fibre glass floor insulation that was already present. Regarding the ventilation the investigator said a "hybrid" construction is acceptable in the right circumstances, there must be adequate ventilation and based on pictures and videos provided that isn't evidenced.

As Propensio didn't agree, the complaint has been passed to me to decide.

As I've detailed above, I acknowledge that the majority of the submissions made on this case have come from the broker of the finance agreement. Moving forward I will however just refer to Propensio for ease of reading.

### **What I've decided – and why**

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I would also like to point out 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.

S.75 of the CCA is relevant here. In summary it allows, in limited circumstances, someone buying goods and/or services on credit to claim for a breach of contract or a misrepresentation against their credit provider when there is a like claim against the supplier.

In this case Ms S paid for the spray foam and its installation via a fixed sum loan provided by Propensio. I'm satisfied the required conditions for a valid claim to have been raised under s.75 have been met in this case. Therefore, Propensio is equally liable for any misrepresentation or breach of contract by V.

Ms S has raised concerns here regarding both misrepresentation and breach of contract. But in this decision, I'm only going to cover breach of contract. This is because I'm satisfied the evidence shows a breach of contract has occurred and that in itself is enough for me to uphold this complaint.

The Consumer Rights Act 2015 (CRA) is also of relevance to this complaint, as it implies terms into the sales contract Ms S entered into with V. One of these implied terms is that the contract will be performed with 'reasonable care and skill'. This isn't directly defined but is usually taken to be the level of care and skill that would be expected in that particular industry.

In its final response Propensio has said that Ms S' installation is categorised as a "warm roof installation" and as such ventilation is reduced as much as possible. However, when changing from a "cold roof" (which Ms S had before the spray foam was installed) to a "warm roof", it's typical for the existing floor level fibre glass to be removed. It's not disputed here that Ms S' existing floor level insulation wasn't removed. This therefore appears to have created a "hybrid roof", which isn't what Propensio has said was intended for Ms S' installation.

In response to the investigator's findings, Propensio acknowledges the suggestion of a "hybrid roof configuration" with reduced ventilation. Additionally, it adds that such a configuration requires careful consideration of ventilation to prevent condensation. As I've said above, V installed Ms S' spray foam on the basis it was a "warm roof installation". So, I'm not persuaded here that V took careful consideration of the ventilation, Propensio initially said V was correct in actually trying to reduce the ventilation as much as possible as part of the "warm roof installation" it was trying to carry out. The lack of adequate ventilation is also evidenced by the videos of the roof and H's report.

Propensio makes reference to section 3.14 of the Scottish Building Standards. It quotes this as follows:

*"Reducing air infiltration - improved insulation and 'tighter' construction of buildings will reduce the number of natural air changes but can increase the risk of condensation. However leaky buildings are draughty and uncomfortable. Sealing up air leaks improves comfort and saves energy whilst proper ventilation keeps the indoor air pleasant and healthy."*

While I've taken this into consideration, I don't believe it evidences that when installing what was actually a hybrid roof, V ensured there was the proper required ventilation. I note section 3.14 does mention the increased risk of condensation, which H's report also indicates has happened in Ms S' loft space.

Propensio has also referenced section 7.6 of the BBA Agrément certificate and said this explains that insulation applied to the underside breathable underlay is permitted. However, looking at section 7.6, it says it applies to “*warm pitched roof – insulation at rafter level only.*” It goes to say, “*no insulation at horizontal ceiling level*”. Given that the existing fibre glass insulation was still present at the ceiling level, I’m not persuaded section 7.6 means the lack of ventilation was correct.

I acknowledge that the report doesn’t seem to be from a RICS registered surveyor and that there appear to be deficiencies in the method used to take the moisture readings. When reaching my decision, I have considered all the evidence, including the videos and photos which show reduced ventilation and that the existing floor insulation wasn’t removed. Having done so, I’m persuaded that the evidence supports removal of the foam, which is recommended in the report.

Looking at all of the evidence that’s been provided here, I don’t believe the installation of Ms S’ spray foam was performed with reasonable care and skill. Ultimately V installed the spray foam on the basis it was creating a “warm roof”. So, V ensured the roof was well sealed and ventilation was reduced as much as possible. But by failing to remove the existing floor insulation, V created a “hybrid roof” with inadequate ventilation for that application.

Given this I’ve considered how to put this right. The CRA mentions the right to specific remedies where it’s been found that reasonable care and skill hasn’t been carried out. One of these is the right to repeat performance to ensure the service conforms with the contract. I don’t believe this is a fair remedy in the circumstances, bearing in mind permanent ventilation (which is absent) is identified by the product literature as essential for mitigating the condensation risk which carries a risk of the timbers rotting. I feel the right to a price reduction is the more appropriate remedy and I think that should equate to 100% of the full contract price.

Therefore, Propensio should cancel the loan (if it’s still active) and refund Ms S all the payments she has made under the agreement. Propensio should add 8% simple interest from the date each of those payments were made, until date of settlement. If any adverse information has been recorded by Propensio regarding this loan agreement, I also think it fair that is removed from Ms S’ credit file.

This then leaves the issue of the spray foam needing to be removed. For this Propensio should arrange for the work to be carried out at its cost and within a reasonable period of time.

### **Putting things right**

- Propensio should cancel Ms S’ loan agreement, if it is still active, and ensure no adverse information is recorded regarding it against her credit file.
- It should refund all the repayments Ms S’ has made under the loan agreement.
- Apply 8% simple interest to these refunds from the date each payment was made until the date of settlement.

If Propensio considers it is required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss S how much it has taken off. It should also give her a tax deduction certificate if she asks for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

- Propensio should arrange for the removal of the spray foam at no cost to Ms S and within a reasonable time period.

**My final decision**

I'm upholding Ms S' complaint and direct Propensio Finance Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 17 March 2026.

Paul Blower  
**Ombudsman**