

complaint

Mr H complains that a fixed sum loan agreement with Clydesdale Financial Services Limited, trading as Barclays Partner Finance, was mis-represented to him.

background

Mr H signed a fixed sum loan agreement with Barclays Partner Finance in October 2016 to pay for some replacement windows. He says that he had the money available to him from his parents to pay for the replacement windows but he was offered a discount of £1,668 by the supplier if he paid for them using a loan from Barclays Partner Finance – so he entered into the agreement. He contacted Barclays Partner Finance in November 2017 and it said that there was no option to settle the finance early and avoid any interest charges.

He complained to Barclays Partner Finance and the supplier. Barclays Partner Finance said that the terms and conditions of the agreement say that he would be charged an additional one month and 28 days of interest if he decided to settle the agreement early. And it said that the settlement figure that he'd requested was £15,578.36.

Mr H wasn't satisfied with its response so complained to this service. He says that he was told that he shouldn't be concerned with the interest rates as the full balance could be settled within 15 months and no interest would be charged. He's also made a complaint about the supplier – and that complaint has been dealt with separately.

The investigator recommended that this complaint should be upheld. He thought that it was more than likely that Mr H was told by the supplier that he could settle the balance of the windows without having to incur any interest and that a further discount would be applied to the cash price. And he couldn't see why Mr H would've paid £429.07 over 60 months (£25,744.20) when he could've paid-off the £20,327 at once - unless he'd been told that he could pay it off without paying any interest. So he recommended that Barclays Partner Finance should unwind the finance agreement and allow Mr H to pay the balance of the cash price of the windows (taking into account his initial deposit and how much he'd already paid for the windows) and that it should also pay him £100 compensation for the distress and inconvenience caused.

Mr H has accepted the investigator's recommendation but Barclays Partner Finance has asked for this complaint to be considered by an ombudsman. It says, in summary, that:

- the loan agreement clearly says that Mr H is required to pay a total of £8,951.20 in interest;
- there's no mention of the loan being interest free or a 15 month interest waiver period;
- Mr H hasn't provided any evidence to substantiate his claim that he thought that he was getting an interest free finance deal;
- if he was given a verbal misrepresentation that contradicted the written contract, he should've requested to have the 'contradictory' information provided to him in writing;
- the supplier says that it didn't give Mr H any incorrect verbal inducements regarding the finance; and
- it can't comment on Mr H's allegation of poor service by the supplier and that's being looked at under a separate complaint against the supplier.

my provisional decision

After considering all of the evidence, I issued a provisional decision on this complaint to Mr H and to Barclays Partner Finance on 14 February 2020. In my provisional decision I said as follows:

“Mr H agreed with the supplier for it to provide him with replacement windows for a price of £18,659. He signed an order form which showed that the agreed price was £18,659 and he paid a deposit of £1,866 on a debit card. The order form says:

“This order is placed on finance and an additional discount has been allowed. If you choose to settle instead by cash on installation, the discount will be withdrawn resulting in a higher price for cash of £20,327.00 and a cash balance payment of £18,461”.

He also signed a fixed sum loan agreement and confirmed that he’d received a copy of the pre-contract credit information and that he was entering into a legally binding agreement and he would keep to the terms and conditions. The agreement clearly set out that the cash price of the windows was £18,659, there was a deposit of £1,866, the loan was for £16,793, the total charge for the loan was £8,951.20, the interest rate was 19.9%, the total amount payable was £27,610.20 and Mr H was required to make 60 monthly repayments of £429.07.

The agreement also said – in a section headed “Early repayment” that:

“You can repay all or part of the loan early at any time. If you repay all or part of the loan early we will charge you interest up to the settlement date (which is 28 days after you tell us that you want to repay or any later date you tell us you want to repay all or part of the loan) plus a further calendar’s month’s interest”.

There’s no reference in the agreement to an interest free period or an option to repay the loan without paying any interest. And the interest rate of 19.9% and the total cost of the interest of £8,951.20 were clearly set out in the agreement. So if Mr H had read the agreement – as he should’ve done – I consider that he would’ve known (or ought reasonably to have known) that he was required to pay interest on the loan. If the agreement didn’t reflect his understanding of what had been agreed, I consider that it would’ve been reasonable to expect him to have asked the supplier about it before signing the agreement – and, if he wasn’t satisfied with the provisions of the agreement, he had the option to not sign it. And he also had the option to pay for the windows in full up-front.

Mr H says that he had the money available to him from his parents to pay for the windows and only agreed to take the finance option because of the additional discount that he was offered if he entered into the loan agreement and because he was told that the full balance could be settled within fifteen months and no interest would be charged. But he’s provided no other evidence to show that the supplier had told him that he could settle the balance within fifteen months without paying any interest. And he signed the loan agreement which clearly set out the terms of the loan and he agreed to its terms and conditions.

Mr H may have misunderstood what he was told by the supplier and the way that the agreement would work. But he received a discount of £1,668 on the cost of the windows (from £20,327 to £18,659) and that discount would've been more than the interest that he was paying if he'd paid off the agreement in full under the early repayment provisions in the first few months. The supplier says that Mr H would've been advised that he could reduce the term and cost of the loan by making overpayments - and if the loan was cleared in fifteen months by making overpayments the discount would be approximately equal to the interest applied. And that may be the reason that Mr H understood that he should settle the agreement within fifteen months. But that wouldn't have been interest free – the interest would've been approximately equal to the discount so he'd have been no worse off by entering into the agreement (and would've also had the benefit of the money for up to fifteen months).

I sympathise with Mr H that he's now paying more for the windows than he understood that he'd have to pay. But I'm not persuaded that there's enough evidence to show that the agreement was misrepresented to Mr H. He signed the agreement and accepted the terms that were clearly set out in it. He contacted Barclays Partner Finance for a settlement figure in November 2017 but I understand that the loan remains outstanding.

Mr H has complained about the service that he received from the supplier and he's made a complaint to this service about that – and that complaint has been dealt with separately. But I'm not persuaded that there's enough evidence to show that Barclays Partner Finance has acted incorrectly in its dealings with Mr H. So I find that it wouldn't be fair or reasonable for me to require it to end the agreement, to pay any compensation to Mr H or to take any other action in response to his complaint".

So subject to any further representations by Mr H or Barclays Partner Finance, my provisional decision was that I wasn't minded to uphold this complaint.

Mr H has responded to my provisional decision in detail and says, in summary, that:

- he accepts that the agreement was signed and not queried at the time;
- he was clearly told that the loan was interest free for 15 months; and
- he wasn't told that the price was discounted from £20,327 to £18,659 – and he's never seen any paperwork showing the £20,327 amount and nor was it ever verbally mentioned;

and he suggests a compromise on the basis that the settlement value that he requested in November 2017 was £15,578.36 and he'll agree to pay that amount less the £11,584.89 that he's paid by monthly direct debit since that date – which is £3,993.47.

Barclays Partner Finance hasn't accepted Mr H's offer and says that the settlement figure is £8,814.12.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not persuaded that I should change my provisional decision.

Mr H accepts that he signed the loan agreement and I consider that it's clear from the agreement that interest was payable on the loan. He says that he was told that the loan

would be interest free for 15 months. But there's no other evidence to show that that's what was agreed with the supplier – and that's not consistent with what's written in the loan agreement.

Mr H says that he wasn't told that the price of the windows had been discounted from £20,327. But that information was included on the order form – which he signed.

He's suggested a compromise under which he pays a further £3,993.47 to Barclays Partner Finance – but it hasn't accepted that offer and says that the settlement figure is £8,814.12. I'm not persuaded that it would be fair or reasonable for me to require Barclays Partner Finance to accept Mr H's offer.

Nor am I persuaded that there's enough evidence to show that the agreement was misrepresented to Mr H or that Barclays Partner Finance has acted incorrectly in its dealings with him. So I find that it wouldn't be fair or reasonable for me to require it to end the agreement, to pay any compensation to Mr H or to take any other action in response to his complaint.

my decision

For the reasons set out above, my decision is that I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 April 2020.

Jarrod Hastings
ombudsman