

The complaint

Mr R complains about the installation of solar panels that he funded using a fixed sum loan agreement with Clydesdale Financial Services Limited trading as Barclays Partner Finance ("BPF")

What happened

In March 2015, Mr R entered into a fixed sum loan agreement with BPF to pay for solar panels to be installed. The supplier didn't though install the panels or the overall system correctly and this damaged Mr R's roof.

Mr R raised a claim to BPF under Section 75 of the Consumer Credit Act 1974 ("Section 75") for underperformance of the solar panels and their poor installation. BPF upheld both claims. They offered Mr R just over £3,500 to make the solar panels 'self-funding' which he accepted. BPF arranged for an independent contractor I'll call 'Q' to inspect the installation as the supplier had ceased to trade. And they subsequently asked Q to arrange for the required remedial works to be completed.

Mr R said the remedial works weren't satisfactory. He said:

- There were still areas of the roof with misaligned tiles as there was insufficient remaining batten to fit the tiles straight.
- The tiles used by the repairer were a metric size where the existing ones were imperial. This meant the smaller metric tiles didn't span the battens correctly which caused a gap under the tiles and led them to slip.
- The timber holding on to the tiles had been significantly damaged by the initial installation and the subsequent repair attempts. This led to water ingress.
- The batten holding the tiles had been split and damaged which prevented the replacement tiles being fitted in a neat row and overall left the roof in a fragile state.

BPF didn't initially uphold Mr R's complaint as they felt Q had shown their repairs were satisfactory. So, Mr R referred his complaint to us.

Our investigator asked Mr R for further evidence to support his complaint which he then sent on to BPF. BPF then arranged for a surveyor to inspect Mr R's roof. The surveyor attended Mr R's property in November 2022 and compiled a report in which he summarised his conclusions as follows:

'The roof appears to have been extensively altered with numerous repairs evident throughout the rear roof covering. Some slates have been incorrectly fitted resulting in gaps to the underside of some slates where they have lifted. Modern slates have been fitted to the roof which are a slightly different size to the original slates, resulting in wide gaps of 20mm or so between some areas of re-fitted slates'.

He went on to say:

'It is my view that the extent of repairs, the quality of repairs and the poor fitting of the solar panels and cabling is not acceptable. It is my view that the solar panels should be removed and set aside. The rear roof slope stripped and re-slatted with new support brackets installed at appropriate locations and the solar panels re-fitted, with a drip loop to the cable'.

BPF asked Q to provide a quote for remediation works in line with the surveyor's report. Q quoted £11,400 but said they weren't able to send anyone out to complete the required work. So BPF offered to pay Mr R £12,000 to allow him to contact his own roofing expert to complete the works. This offer included a £500 increase to Q's quote and £100 for the distress and inconvenience Mr R had been caused.

Mr R arranged to get a couple of quotes so he could understand if BPF's offer covered the required remedial works. The first was for £15,400 and the second was for around £23,250. The second quote included a cost for disposal of suspected or confirmed asbestos waste.

Our investigator recommended that Mr R's complaint should be upheld. He said there was no dispute there had been a breach of contract and that BPF should arrange to put things right. Initially, he felt the quote for £15,400 was a reasonable basis to establish the cost that Mr R would incur if he was to arrange for and pay for the remedial work to be completed. He said BPF should either arrange for an alternative contractor to complete the work (bearing in mind Q said they couldn't now do so), or to cover the costs of the quote for £15,400.

Mr R didn't feel the recommendation was fair bearing in mind the second quote mentioned potential asbestos and the cost involved in removing this (if it were to be found). Our investigator subsequently recommended that BPF should cover this cost if that work was needed. And he felt that BPF's offer of £100 for distress and inconvenience was fair.

BPF agreed with our investigator's recommendation, but Mr R mentioned he would be liable for the cost if the panels then failed following the works.

As agreement ultimately couldn't be reached between the parties, Mr R's complaint has been passed to me to review.

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.

Section 75 allows Mr R to hold BPF responsible for breach of contract or misrepresentation by the supplier in respect of goods or services purchased using the credit afforded here.

There are certain technical criteria that must be met for a Section 75 claim to be valid. These criteria relate to the cost of the goods or services, the parties to the transaction, or the way the payment was made.

I am satisfied the criteria is in place for Section 75 to apply to this transaction. So, given Mr R's issue, for me to find that BPF needs to act in respect of his complaint, I'd need to be satisfied there has been a breach of contract by the supplier.

I note that Mr R made two claims to BPF. The first of these related to the performance of the solar panels and representations made about this. BPF made an offer to Mr R, and this was accepted by him. It's not clear to me whether Mr R still disputes this part of his complaint. But, as he accepted BPF's offer, and his more recent correspondence has been around the damage to his roof, I have decided that I won't be looking at this aspect any further.

It seems to me that the breach of contract relating to the installation of the solar panels which has caused damage to Mr R's roof isn't disputed. I say this because BPF has accepted that the installation of the solar panels wasn't done correctly and caused damage to Mr R's roof. The offers they have made since reflect that. For the avoidance of any doubt though, I find there was a breach of contract by the supplier. The inspections that have been carried out and the photographs Mr R has sent in as evidence confirm that. And, as I've mentioned, BPF can be held liable for the supplier's breach of contract.

The outstanding issue is how BPF should put things right for Mr R. It seems that BPF are agreeable to Mr R arranging a suitable third party to carry out the required remedial works, as their preferred contractor in Q won't currently arrange this. I've seen the quotes that Mr R has provided and agree with our investigator that the first quote provided for £15,400 looks to be comparable with the quote Q initially gave. So, I think it's fair to use that as a basis for what BPF need to cover financially.

I also find that BPF should cover the cost of any asbestos removal and disposal that the second quote set out. It's unclear whether this is needed or whether the company who provided the quote put that in to cover this if it's needed. Nevertheless, if this is needed, BPF should cover that cost and in good time so that the overall necessary remedial work is carried out without delay.

BPF may still wish to arrange for their own preferred contractor to carry out the necessary works. If so, that should be done at no cost to Mr R.

I note that Mr R is concerned that he will have to cover any cost if the solar panels fail as a result of the required remedial works. I understand Mr R's concerns, but this isn't something that is guaranteed to happen. If it does, and it can be shown that this has happened because of the remedial works, he should refer the matter back to BPF so they can consider this. I can't though make an award based on this currently as it is a hypothetical situation at present. I'd just add that BPF has been amenable to ensuring Mr R's complaint is resolved to his satisfaction and they should ensure that they continue to be so.

I find that Mr R has been caused distress and inconvenience and find that a payment of £100 is warranted for this from BPF.

Putting things right

BPF should do one of the following:

- Arrange for a contractor to complete the required remedial works, as set out in the inspection from November 2022;
- Cover the costs of a comparable quote for those works to be completed, as provided by Mr R.

BPF should also pay Mr R for the cost of removal and disposal of asbestos if this is required and upon suitable evidence of this from him.

BPF should pay Mr R £100 for the distress and inconvenience he's been caused by this matter.

My final decision

My final decision is that I uphold this complaint and direct Clydesdale Financial Services Limited trading as Barclays Partner Finance to carry out what I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 15 December 2023.

Daniel Picken
Ombudsman