

The complaint

Mrs A complains that Lloyds Bank Plc haven't treated her fairly after her claim to it regarding roofing works.

What happened

Mrs A had some roofing work done which she felt was substandard. She complained to the roofing company (hereon 'the Roofers') but was unsuccessful. So she made a Section 75 claim under the Consumer Credit Act 1974 to Lloyds, as she'd paid for the roofing using credit provided by Lloyds. Lloyds considered the matter and offered Mrs A the settlement amount of £14,722 (including the cost of the report) to remedy the roof works as identified in the report done. Mrs A thought that this didn't properly reflect some other damages and consequential losses which she said had not been included in the report or in its offer including the damaged plastic corrugated roof, water ingress issues and Mrs A being overcharged originally. She was also unhappy with Lloyds making an offer based on the lowest of the quotes she'd provided. So she brought her complaint to this service.

Our Investigator upheld Mrs A's complaint and found that Lloyds should refund Mrs A £1,400 to reflect the overcharging by the Roofer. He thought that Lloyds should also reconstruct her credit card account to reflect that the refund was given on 17 January 2022 (an amount of £1,500 was paid on this date) and pay interest on any consequent periods of the account being in credit. The Investigator also thought that Lloyds should pay Mrs A £150 compensation for not fully dealing with all her complaint points originally and the consequent delays and inconvenience caused by this.

Lloyds accepted these findings and asked whether Mrs A was willing to accept the outstanding offer of £14,722 offered in relation to her S75 claim. Mrs A asked some more questions about the Investigator's assessment which he answered. She then asked for an Ombudsman's decision but didn't provide any further argument as to why the Investigator's positions were wrong or unfair. So the complaint was passed to me to decide.

Earlier this month I issued a provisional decision dealing with the matters at hand and making a finding as to the repair of the plastic corrugated roof and finding the other remedies that the investigator had found to be fair. Both Mrs A and Lloyds have responded to my provisional 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.

Both parties have chosen to say that they've nothing further to add to my provisional decision. As neither party has chosen to dispute any element of my provisional decision I see no persuasive reason to depart from the rationale therein. Accordingly I uphold this complaint about Lloyds for the following reasons, which are those broadly set out in my provisional decision.

The facts of this matter are well known to both the parties. Lloyds made an offer when Mrs A made her S75 claim to it, based on quotes provided to remedy the identified issues in the report. For the identified issues in the report I see nothing to be gained by considering this offer in depth bearing in mind the quotes remedy the identified issues and Lloyds has offered to cover the cost of one of the quotes to remedy the identified issues. This decision will focus on matters outside of the report's identified issues (which the offer seeks to settle) such as described (plastic corrugated roofing, water ingress and so on).

Mrs A and her representative have made lengthy and detailed arguments and provided significant evidence and I commend them on their submissions for their clarity and completeness. Bearing in mind the volumes of evidence and issues here I see little to be gained by repeating what has gone before particularly that which has been agreed or uncontested. Accordingly I'll only address those issues which warrant comment or decision. This is intended to ensure clarity and brevity and is in line with our informal approach.

Mrs A says she's unhappy with the offer Lloyds has put forward as it is based on the lowest amount quoted for remedying the issues here. It should be remembered that Lloyds' responsibility here is to consider the s75 claim fairly and in this case to remedy the matter fairly as a 'like claim'. The remedy for breach of contract here is for Lloyds to perform the contract so as to remedy the breach which has been established. It is free to use any supplier of such services that it wishes to perform the contract that Mrs A entered into as clearly it has to outsource this work as it's a financial institution not a roofing contractor. I've seen no persuasive evidence that the supplier chosen here has provided a quote for such remedy that is negligent or will not remedy the breach established. So I'm not persuaded Lloyds has done anything wrong here.

Regarding the overcharging by the Roofers that Mrs A points to, Lloyds has accepted the Investigator's recommendation it refund this. Which I think is fair.

Mrs A notes the damage to the corrugated plastic section of roofing not being dealt with previously. Our Investigator noted this damage was not in the inspection report. Mrs A points correspondence with the roofer saying this indicates that it caused the damage. The evidence shows that it is only one of the sections of corrugated plastic which is damaged. So clearly Mrs A's request for that entire plastic roofing to be replaced is unfair. Lloyds' only obligation here is to make good on that damage, not replace the whole section. If it were to replace the whole roof Mrs A would have received betterment as she'd then have a better roof than what was damaged and that's unfair. I say this because I've seen the evidence of the damage and therein can see that it is not a new corrugated plastic roof but rather one that has been in place for some time. When these arguments were put to Mrs A she didn't respond with further argument about costings of repair for this damage. So I've gone on and considered this damage and I think Lloyds should repair this.

I've liaised with both parties over the issue of the plastic corrugated roofing. And neither party provided persuasive positions on the matter including in response to my provisional decision where I suggested a figure of £250 to fix the plastic roofing seemed fair based on some rudimentary research I'd done. Bearing in mind neither party chose to even pass comment on this in response to my provisional decision I see no reason to depart from it.

With regard to the damp issues it is clear that there has been damp issues in the house throughout as it was, at least in part, the reason for the original works to be done. Furthermore it is of note that Mrs A knew about it, and it is of note that claimants such as Mrs A are obliged to mitigate their losses when on notice of them. Lloyds has rightly pointed to the fact that if there has been any loss suffered since Mrs A didn't accept its offer originally, then those losses such as those arising from the non-repair of such issues should not be covered by Lloyds.

Similarly Mrs A has questioned whether the offer remains fair due to the increasing cost of living and the possibility that quoting for such work would now result in higher quotes. However the test here is did Lloyds consider the matter fairly and was its offer fair when the claim was put to it. And I'm satisfied it was and Lloyds is not at fault for Mrs A not accepting that offer when made or any consequences thereof.

Mrs A also made a number of comments about the Roofers and their behaviour. However this complaint is about Lloyds and what it should have done. As the Roofers do not fall directly within this service's remit, all this service can consider is whether Lloyds treated Mrs A fairly when she brought her claim to it. Similarly Mrs A has sought advice from this service about the issues she has. This service's remit is to provide impartial decisions on disputes between complainants and firms. It cannot provide advice on the matters Mrs A seeks advice upon.

Mrs A says no award has been made for the distress caused by the failings of the roofers and the inconvenience of having to have the roof repaired. This is because Lloyds aren't responsible for that. Section 75 claims make creditors responsible for breach of contract and misrepresentation by suppliers and the direct financial losses of those only. Lloyds isn't responsible for how the roofers treated Mrs A, only for making good on any breach of contract within the work they did. And as there is an onus on claimants to put their claim forward and an obligation for Lloyds to consider such claims fairly, bearing in mind what has been put to Lloyds in this matter to the point of issuing this decision, I'm satisfied that the outcomes here are fair.

So all in all for the reasons here and articulated in my provisional decision I uphold this complaint.

Putting things right

So Lloyds must pay the following:

- Pay the £14,722 it made prior to this service's involvement on Mrs A accepting it
- Refund Mrs A £1,400.
- Lloyds should reconstruct her credit card account to reflect the refund which was given on 17 January 2022 (an amount of £1,500 was paid on this date). If, after doing so, this shows Mrs A would have been in credit at any point, it should pay 8% annual simple interest* on this amount from the date she would have been in credit until the date Lloyds refunds this.
- Pay Mrs A £250 for fixing the corrugated roofing.
- Pay Mrs A £150 compensation for not fully dealing with all her complaint points and claims which resulted in a further delay to her claim.

*HM Revenue & Customs requires Lloyds Finance to take tax off this interest. Lloyds Finance must give Mrs A the relevant certificate showing how much tax it's taken off (if Mrs A asks for one).

My final decision

For the reasons set out above, I uphold the complaint against Lloyds Bank Plc. I direct it to put things right as I've described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 14 May 2024.

Rod Glyn-Thomas
Ombudsman