

The complaint

Mrs D's complaint is that, when she had a new boiler fitted, the work was not carried out to a satisfactory standard. Because the work was financed with a loan from Tandem Bank Limited, Mrs D says that it is equally liable with the supplier for that work.

What happened

In or about October 2022 Mrs D entered into a contract with a supplier (which I'll call "B") for the supply and installation of a new condensing boiler in her home. In addition, B was to supply and fit a new radiator and remove Mrs D's old boiler.

To pay for the work, Mrs D took out five-year interest-free loan with Tandem. The loan was arranged by B, acting as a credit broker.

The work began on 11 October 2022, and a few days later Mrs D contacted B to say that she was unhappy with several aspects of it. Her concerns included:

- The work had been carried out by sub-contractors, although B's salesman had assured Mrs D that it did not use sub-contractors.
- Pipes had not been removed when the old boiler was taken out.
- One pipe which should have been changed had not been changed, which meant that the boiler was not working properly.
- The radiator had been fitted too high, meaning that pipes were left exposed.
- A power flush of the system should have been carried out, but was not completed.
- The workmen had dropped something into Mrs D's toilet cistern, damaging the flush mechanism.

There were numerous exchanges over the following months between Mrs D and B. There were also several visits to Mrs D's home so that engineers could fix the problems she had identified. They did not always go to plan, as the nature of Mrs D's work means that she cannot always be at home to allow access to the property and cannot take calls during the day to arrange visits. B did not always respect that.

In a letter of 28 April 2023 B wrote to Mrs D with a summary of the steps it had taken to resolve the issues she had raised. It concluded that all the necessary remedial work had been carried out. B's letter also provided Mrs D with details of the Utilities ADR scheme, to which she could refer her complaint if she remained unhappy.

Mrs D was not happy with B's response and contacted Tandem. As the finance provider, Mrs D said that it was equally liable with B for the problems she had encountered. Tandem said however that it appeared all the issues had been resolved and that it therefore had no further liability to Mrs D.

Mrs D did not accept Tandem's response and referred the matter to this service. She noted in doing so that her toilet cistern was still not flushing properly.

One of our investigators considered what had happened. She asked Mrs D to provide quotes for repairs to the toilet, but Mrs D was only able to obtain one, and that was not in writing. The investigator therefore recommended that Tandem arrange and pay for repairs. She also recommended that Tandem pay Mrs D a further £100 in recognition of delays in handling Mrs D's complaint.

Tandem broadly accepted the investigator's recommendations, although it said it would only pay for work against an invoice.

Mrs D did not accept the investigator's view. She felt that it did not properly address or compensate her for all the trouble which B's actions had put her to. She asked that an ombudsman review the case.

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.

Having done so, I have reached broadly the same overall conclusions as the investigator did. My conclusions about how things should be put right are a little different, however, primarily to make a resolution easier to implement.

Mrs D's complaint arises because of the actions of B in carrying the work she agreed and in its subsequent attempts to rectify problems. But I have no power to consider a complaint about B's actions (save for its actions as a credit broker, about which Mrs D has not complained). As I shall explain, Tandem shares responsibility for some of B's actions, but by no means all of them.

One effect of section 75 of the Consumer Credit Act 1974 ("section 75") is that, where goods or services are paid for with a loan arranged by the supplier, and the customer has a claim for breach of contract or misrepresentation against the supplier, they have a like claim against the lender. Section 75 is subject to other conditions too, but I am satisfied they are met here. I must therefore consider what Mrs D has said about B.

I do not believe that B disputes that some aspects of its work were not carried out to a satisfactory standard. It does however appear that remedial work has been carried out and that the boiler is now functioning properly, pipes have been fitted correctly, the new radiator is functioning as it should, and old pipework has been removed. That did of course take longer than Mrs D would have liked, but I have seen no evidence to suggest that the installation is not now in a satisfactory condition. Where there is a breach of contract in a case such as this, I would usually expect the installer to take steps to complete remedial work, if possible.

Mrs D says that her toilet is still not functioning properly. There does not appear to be any dispute that the problem arose because of damage caused during or linked to the boiler installation. And Tandem has agreed that it will accept responsibility for the cost of repairs.

Mrs D says she has been given an unwritten quote of £140 (VAT free) for the repair. That appears reasonable in the circumstances, so my award will be based on the expected cost of repairs.

Mrs D says she was told that B did not use sub-contractors and that, had she known that was untrue, she would have used a cheaper alternative than B. B's terms and conditions did however say that it might use sub-contractors, so I don't believe I can fairly conclude that its salesman said the opposite or that, if he did, it was reasonable for Mrs D to rely on that. And

it does not necessarily follow that she would have taken a cheaper alternative. There were other benefits to instructing B to carry out the work – including interest-free finance.

Finally, I do not under-estimate the distress which this has caused or the inconvenience to which Mrs D has been put. She has said that her health has suffered as a result of the problems with the boiler, and it is clear that the necessary repairs have caused her significant inconvenience. Those are not, however, things which have resulted from Tandem's actions; nor are they matters which could generally give rise to a claim for breach of contract or misrepresentation which would fall within section 75. Tandem did not however deal with Mrs D's section 75 claim as well as it should have done, however, and I agree with the investigator that a payment of £100 in recognition of that is appropriate.

It is not for me to say whether Mrs D does in fact have a claim against B. Nor is it for me to decide whether she has a claim against Tandem under section 75. What I must do is decide what I consider to be a fair resolution of Mrs D's complaint about Tandem's actions. In doing that, I have taken into account relevant law – including section 75.

Putting things right

As I indicated, I have reached a slightly different conclusion from the investigator about how matters should be resolved. Mrs D has had difficulty (through no fault of hers) obtaining quotes for the remaining work. I have therefore based my award on the assumption that it is likely to cost around £150 plus VAT (£180 in total) to have the toilet cistern fixed. And I think it's fair that Mrs D be given the option of accepting a payment or arranging repairs and seeking reimbursement from Tandem.

My final decision

For these reasons, my final decision is that, to resolve Mrs D's complaint in full, Tandem Bank Limited should:

- at her option, either
 - pay Mrs D £180; or
 - reimburse her against invoices for the repair of her toilet cistern; and
- pay her £100 in recognition of the inconvenience to which she has been put.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 18 December 2024.

Mike Ingram

Ombudsman