

The complaint

Mr S is unhappy with Shawbrook Bank Limited's settlement offer following his claim under Section 75 of the Consumer Credit Act 1974 for some mis-sold solar panels.

What happened

The parties are aware of the detailed background to this complaint. So, I won't repeat that here. In summary, Mr S bought a solar panel system from a supplier that I'll call G. He financed this with a 15-year fixed term loan from Shawbrook which he has since settled using a lump sum payment from his pension. The total amount borrowed was just over £12,000. And with interest over 15 years, he would have paid around £24,000.

Mr S has said that G misrepresented the benefits of the panels to him and his savings have been nowhere near the estimates he was given. Shawbrook have accepted that G more likely than not misrepresented the income and savings to Mr S. So, it made an offer to compensate Mr S by restructuring the loan so that he would pay no more than the benefit to him of the panels over the original 15-year term of the loan.

Unhappy with this offer, Mr S brought his complaint to our Service. Mr S is represented by his daughter who has explained how the purchase of these panels has affected Mr S' retirement finances.

Our investigator thought that the offer made by Shawbrook amounted to fair compensation. Effectively Mr S would only pay for the panels what he got back in Feed-in-Tariff (FIT) and export payment income, as well as electricity savings. So, they would be cost neutral. After the first 15 years from installation, all income and savings from the panels would effectively be profit.

Mr S didn't agree and would like the panels removed and his money back, less any income and savings he's had from the panels. He's also concerned about whether the warranties he was given by G will be honoured - G is no longer in business.

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.

I'm sorry to disappoint Mr S but I agree with our investigator that the offer that Shawbrook has made amounts to fair compensation. I'll explain why below. But first may I apologise for the time that Mr S has had to wait for a decision on his complaint. We've had a significant number of solar panel complaints brought to us over the last couple of years and these have taken us longer than we would have liked to review. We've been dealing with these in date order and that's why Mr S is only now getting a decision on his complaint.

I completely appreciate how upsetting it must have been for Mr S when he learned that the benefits from the panels he'd bought weren't going to be as much as he expected. That was down to the misrepresentations made by G - which has since gone out of business. It's

important to remember though that it wasn't Shawbrook that sold the panels to Mr S. So, most of the upset he's been caused is down to G's actions and not Shawbrook's.

There's no need for me to consider in detail in this decision whether Shawbrook is liable to Mr S for the misrepresentation. Shawbrook has accepted that the benefits of the panels were misrepresented and that it must take responsibility for that. But what I do need to determine is fair compensation.

Shawbrook has offered to restructure Mr S' loan to make the panels self-funding over the original 15-year term of the loan. That's what I would normally expect it to do in the circumstances of Mr S' complaint. This follows our usual method of awarding compensation, where we look to ensure that a customer is not disadvantaged by the representations made. It's not common for us to ask a loan provider to completely unwind the loan as Mr S has requested. That's because we think that fair compensation is to ensure that Mr S pays no more than the benefits he will continue to get from the panels.

I know Mr S isn't sure whether the panels are working as they should - as they've not been inspected or serviced since he had them fitted. But all indications are that they are working as intended. Mr S is receiving FIT payments and will be benefitting from electricity savings during the day by using the power generated by the panels. Shawbrook has estimated that the output from the panels is more than that which G predicted. That doesn't mean that they are providing the income that Mr S expected. But Mr S should continue to benefit from the panels for the rest of their lifespan – which is generally expected to be about 25 years. Mr S should also get FIT payments for 20 years.

So, given that the panels are continuing to produce an income for Mr S and I've not seen any evidence to indicate that there is a problem with their performance, it would be disproportionate for me to require that they are removed and Mr S be refunded his payments. I appreciate that Mr S knows of another customer that has received a full refund. But as I've said, it's unusual for us to award that and there must be something in that other customer's case that warranted the remedy given. Each case with us is considered on its own merits.

Shawbrook has calculated that Mr S is due a refund of about £3,300. That calculation is based on some assumed values for FIT and electricity savings. If Mr S is to provide Shawbrook with all his electricity bills and FIT statements, then Shawbrook will be able to update the calculation to take his actual usage and benefits into account. But I've seen nothing wrong with the assumptions that it's used in its calculations - which are the standard ones agreed with this service for complaints of this type.

I was sorry to hear that Mr S is upset that he's had to use his pension lump sum to settle the loan early. I can completely appreciate why he's done this. And he will have saved a significant amount of interest as a result. But that has left him without the use of this money for his retirement. Whilst the benefits Mr S has received from the solar panels may not have been as large as he'd have hoped for to date, it may be some consolation to note that with the recent increase in electricity prices, Mr S may well benefit by considerably more going forward – assuming he is to use most of the energy generated by the panels during the day. I can't compensate Mr S for choosing to use his pension lump sum to pay for the system. But it may ultimately turn out to be a reasonable investment if electricity prices are to continue their upward trend.

I know Mr S would like me to award him compensation for the fact that the misrepresentations were made in the first place by G. But as I said above, that wasn't Shawbrook's doing but G's. And G is no longer around for Mr S to pursue. Upon learning of Mr S' claim, Shawbrook offered to settle it straight away. So, I can't say that it has made the

situation any worse for Mr S - which would be the only thing I could award him compensation for.

Mr S is also worried about losing the benefit of the system warranties he was given by G. As there's nothing apparently wrong with his panels now, there's nothing which Shawbrook can answer for here. But the law does provide that where the warranties were part of a contract that Shawbrook financed, if anything is to happen to Mr S' panels that would otherwise be covered by those warranties - and that takes place during the time the warranties were active - then Shawbrook may be liable for that. So, if Mr S is to experience any problems going forward, he should take that up with Shawbrook at the relevant time.

In calculating the benefits to Mr S over the term of the loan, Shawbrook has estimated that Mr S will receive about £12,400 over 15 years. As he's paid around £15,800 already, that's why Shawbrook have offered him just over £3,000 compensation. It has also agreed to let him keep the panels so that he continues to get an income and savings from them. And it's offered to pay him 8% simple interest. I think that's fair compensation.

My final decision

Shawbrook Bank Limited has made an offer to settle this complaint which I consider in all the circumstances of this case amounts to fair compensation. I require that Shawbrook Bank Limited:

- Recalculate the loan so that Mr S pays no more than the known and assumed savings and income that he will receive from the solar panel system over the 15-year term of the loan and it must ensure that he pays no more than that;
- Allow Mr S to keep the solar panels and other energy saving devices;
- Calculate any overpayments made by Mr S and repay them to him; and
- Add simple interest at 8%* a year to any overpayments as offered.

*HM Revenue and Customs may require that Shawbrook deduct tax from any interest paid. Should Mr S request it, Shawbrook should give him a certificate showing how much tax has been taken off so that he may reclaim it if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 April 2022.

James Kennard

Ombudsman