

The complaint

Mr A is unhappy with the response of Creation Consumer Finance Ltd, following a claim against it under section 75 of the Consumer Credit Act ("the CCA")

What happened

Mr A was contacted by a company that supplied and installed solar panel systems. Following a sales meeting, Mr A agreed to enter a contract with the installer for it to supply and install a solar panel system to his property. To pay for this Mr A also agreed to enter into a fixed sum loan agreement with Creation Consumer Finance Ltd ("Creation").

Mr A later made a claim under section 75 of the CCA. He said that the panels were underperforming against what he was promised by the installer. He said the installer had confirmed there had been a mistake in the original quote, but then entered administration. Mr A wasn't happy with how Creation had responded to his claim and said he had agreed with Creation he would not pay anything on his loan until the matter was resolved, but the debt was later sold on to a third party. As a result, his credit report had been adversely affected.

As Mr A was not happy with the response he got from Creation, he brought the complaint to our service.

Following our involvement, Creation made an offer to settle the complaint. Creation said it had calculated the potential savings and income to Mr A over the term of the loan. It said it would restructure the loan so that Mr A would pay no more than this over the loan term. This reduced the cost of the loan from £17,858.80 to £6,537.52. Creation gave Mr A four options to consider how the new, lower loan could continue. It also offered to pay Mr A £100 for the trouble and upset caused.

Mr A was not willing to accept the offer, as he was still concerned about his credit rating and that his debt had been sold to a third party. As Creation did not respond on this point, the case was passed to decision. Creation later confirmed that it would buy back the debt and amend Mr A's credit file.

As Mr A did not accept the offer, the case has been passed to me to decide.

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.

Mr A says that during the sales meeting for the solar panels, he was mis-led about the benefits of the panels, and this is what induced him into entering into the contract with the installer. As Creation have made an offer to resolve the complaint, this decision will deal with whether I think that offer to be fair compensation.

The role of this service is to help settle disputes between consumers and businesses providing financial services, fairly and reasonably with the minimum formality. In cases like this one, determining fair compensation isn't an exact science. My role is to arrive at a fair and reasonable outcome taking into account the particular circumstances.

I've considered if it would be reasonable to put Mr A back into the position, he would have been in had there been no misrepresentation. However, here I don't think it would be fair or proportionate to require the removal of the panels from his home. Rather, I think the fair outcome here is to put Mr A into a position where the panels are cost neutral over the original term of the loan, meaning that he isn't disadvantaged by any misrepresentation. By allowing Mr A to keep the panels I'm satisfied that he will likely benefit from lower electricity bills and FIT payments going forward.

I've considered the methodology Creation have submitted to this service to calculate the offer they made. The methodology is based on a combination of actual performance and estimated future performance on the system.

When calculating the estimated future benefits Creation has set out that it will use a number of assumptions, these include the self-consumption rate, electricity price inflation, the degradation rate and the estimated retail price index (RPI). I'm of the view that these appear reasonable taking into account the actual known figures. In summary I'm satisfied that the assumptions used provide a fair and reasonable basis for calculating fair compensation.

By making the solar panel system cost neutral, or self-funding, Mr A's monthly payments will reduce, this means that he would previously have been paying more each month that he should have done. And this means he would have been deprived of any monthly overpayment; I would expect a business to add 8% simple interest from the date an overpayment was made to the date of settlement.

Creation has given Mr A four options as to how any over payment and associated interest can be used. The original offer provided exact figures based on the loan situation at the time, however these will need to be updated to reflect the current situation. However, in principle the options are

- 1) The overpayments are used to reduce any outstanding balance of the loan and Mr A continues to pay the currently monthly payment, and the loan finishes early
- 2) The overpayments are used to reduce the outstanding balance of the loan, and Mr A pays the new lower monthly payment until the end of the loan term
- 3) The overpayments are returned to Mr A he continues to pay their current monthly loan payments, resulting in the loan finishing early or
- 4) The loan over payments are returned to Mr A and he pays a new lower monthly loan payment until the end of the loan.

If Mr A decides to accept the decision, he should indicate on the acceptance form which of the four options he would like to accept.

I am also satisfied that Creation's offer to buy back the debt from the third party and ensure that Mr A's credit file doesn't suffer any damage due to the loan to date is fair under the circumstances.

I also consider the proposed award of £100 for the trouble and upset caused to be fair.

My final decision

My final decision is that Mr A's complaint should be upheld. In full and final settlement of it, I require Creation Consumer Finance Limited to:

- a) Allow Mr A to keep the solar panel system
- b) Estimate the potential savings and income to Mr A over the loan term and rework it so that he pays no more than this. Where possible they should use Mr A's electricity bills and FIT statements to do this
- c) Add 8 % simple interest to any overpayment made from the date the overpayment was made until the date of settlement *
- d) Allow Mr A to decide how he would like his overpayment and associated interest to be used, using the four options above
- e) Take appropriate steps to remedy any negative impact on Mr A's credit file caused by the loan to date, and
- f) Pay Mr A £100 for the trouble and upset caused

*If Creation Consumer Finance Ltd considers that it is required by HM Revenue & Customs to take off income tax from that interest it should tell Mr A how much it has taken off. It should also give Mr A a certificate showing this, should he ask for one, so he can claim the tax from HM Revenue & Customs

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 1 April 2022.

Sarah Holmes
Ombudsman