

## **Complaint**

Mr H has complained that Hitachi Capital (UK) Plc (“Hitachi”) rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

## **Background**

Mr H bought solar panels for his home in 2014. The purchase was funded by a loan from Hitachi, and that business is therefore liable for the acts and omissions of the installer under the relevant legislation. In this case, that relates to the installer misleading Mr H into believing that the panels would be self-funding, which they weren't.

Mr H's complaint was considered by one of our adjudicators. He thought that the benefits of the panels were mis-represented to Mr H, and that fair redress would be for the loan to be restructured to effectively make the panels self-funding. This restructure should be based on evidence of the actual performance of the panels, and a number of assumptions on future performance. Mr H also used a refinance loan to pay off his loan with Hitachi, so our adjudicator added that the losses incurred because of the refinance loan should also be considered.

Hitachi initially didn't agree with the adjudicator's view of the complaint but later made an offer to settle the complaint. However, it didn't work out redress in line with our established approach to these types of cases. Our adjudicator wrote to Hitachi to explain how to correctly work out a compensation offer. Hitachi hasn't responded, so the case was passed to an ombudsman.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Hitachi is familiar with all the rules, regulations and good industry practice we consider when looking at complaints of this type, and indeed our well-established approach. So, I don't consider it necessary to set all of that out in this decision.

Having carefully considered everything provided, for the same reasons as those explained by the adjudicator, and as Hitachi appears to now accept, I uphold this case. In brief, that is because the evidence supports the conclusion that a misrepresentation took place and Mr H was not given clear information to demonstrate that the solar panels would *not* be self-funding and would equate to an additional cost for him.

So, I think that Hitachi didn't treat Mr H fairly and he lost out because of what Hitachi did wrong. And this means that it should put things right.

## **Fair compensation – what Hitachi needs to do to put things right for Mr H**

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr H's complaint for Hitachi to put things right by recalculating the original

loan based on the known and assumed savings and income to Mr H from the solar panels over the 10 year term of the loan so he pays no more than that, and he keeps the solar panel system, and any future benefits once the loan has ended.

In the event the calculation shows that Mr H is paying (or has paid) more than he should have Hitachi needs to reimburse Mr H accordingly. Should the calculation show that the misrepresentation has not caused a financial loss, then the calculation should be shared with Mr H by way of explanation.

As our adjudicator explained, Mr H has settled the loan by refinancing, and he has supplied evidence of the refinance to Hitachi. I understand Hitachi has offered to compensate this customer and our adjudicator has explained, in detail, how Hitachi should work out redress in this case. To confirm our approach, Hitachi should:

1. Refund the extra Mr H paid each month with the Hitachi loan.
2. Add simple interest from the date of each payment until Mr H receives his refund.
3. Refund the extra Mr H paid with the refinanced loan.
4. Add simple interest from the date of each payment until Mr H receives his refund.
5. Pay Mr H the difference between the amount now owed and the amount he would've owed if the system had been self-funding

I'm satisfied that there was sufficient information available at the time that Mr H first contacted Hitachi that means the claim should have been upheld. I direct that Hitachi should pay £100 compensation for the trouble and upset caused.

### **My final decision**

For the reasons I've explained, I'm upholding Mr H's complaint. Hitachi Capital (UK) Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 April 2022.

Asma Begum  
**Ombudsman**