

The complaint

Mr W is unhappy with the outcome of his complaint following his declined claim against Ikano Bank AB (publ) under Section 75 of the Consumer Credit Act 1974 (the 'Act') for some mis-sold solar panels.

What happened

The parties are fully aware of the background to this complaint, so I don't intend to set it out in detail here. In summary, in late 2017, Mr W bought a solar panel system from a supplier, that I'll call 'S'. He's told us that S' salesman said the panels would be self-funding. The Feed-in-Tariff (FIT), export payments and electricity savings would be sufficient to pay the monthly loan costs for the 10-year fixed term £6,500 loan he took from Ikano to pay for the panels. Mr W has also said that the system keeps tripping out in wet or damp weather and has done since the panels were fitted.

S has gone into liquidation but a related solar supply company, F, has been helping Ikano deal with complaints about S. When Mr W complained, he was told by F that his panels were out of warranty and that the problem was likely to be with the inverter. F said it would come out to inspect the system but would charge £250 for this. F didn't address the allegations of mis-sale, but it did offer to provide Mr W with the 20 LED lightbulbs that he never received from S under the original contract.

Unhappy with this, Mr W referred his complaint to this Service. Ikano said that it hadn't itself dealt with the complaint, even though F appeared to have been acting on its behalf. So, it issued a further final response letter in which it didn't agree that the panels had been mis-sold or that it was responsible for any problem with the system, as it was outside the term of the two-year warranty. It did, however, apologise for the way in which Mr W's section 75 claim had been dealt with. But offered no compensation.

Our investigator thought that the benefits of the panels had been misrepresented to Mr W. She also considered that Ikano should arrange for the system to be inspected and repaired if any fault was found with the installation. She recommended that the loan be restructured to make it self-funding and that Mr W be credited for any overpayments plus simple interest at 8%. She also thought that Ikano should pay £100 compensation for the distress and inconvenience caused to Mr W through the way that Ikano had dealt with his claim.

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 have come to the same conclusion as our investigator for substantially similar reasons. So, I think this complaint should be upheld. I'll explain why.

I was very disappointed to see that Ikano, after almost four months, has still failed to respond to the investigator's opinion on this complaint, despite being chased. This service can only operate efficiently if financial services businesses are to respond to our investigators

promptly. I hope that Ikano will take due note of this when dealing with future complaints.

The parties accept that Section 75 of the Act is relevant to this complaint. Ikano is responsible for any legitimate claim that Mr W may have against S in the same way that S would have been if it had still been around to answer it. Ikano will be aware of our approach to solar panel mis-sale complaints, so I won't set that out again here. Our investigator has also made that approach clear in her opinion on this complaint.

I'm satisfied that Mr W was told that the panels would be self-funding over the 10-year term of the loan. The paperwork prepared by S makes a wholly unrealistic claim that the benefits that Mr W would get from the panels over their 25-year lifespan would be around £65,000. For the 20 LED bulbs that were to be supplied alone, S said Mr W would save over £13,000 in 25 years. This I think gives a flavour of the unsupportable claims the salesman made to Mr W. So, I think that it's more likely than not he was told the panels would be self-funding and that he wouldn't have bought them had this misrepresentation not been made.

Ikano has said that Mr W could easily have compared the FIT, export and electricity savings figures against the loan instalments and seen that the panels wouldn't be self-funding. But given the other claims that were being made about savings, I don't think that would have been an easy comparison for him to make, particularly if, as Mr W says, the salesman was saying something completely different.

Mr W has told us that the panels have been tripping in wet and damp weather ever since they were fitted. Ikano asked F to look into this for him but they wanted to charge to attend, as the two-year warranty had expired by the time that Mr W complained to Ikano. But Mr W's evidence is that this had been going on since the panels were fitted. And I have no reason to doubt that's true. S went bust and so couldn't answer Mr W's concerns, so he ultimately ended up coming to Ikano. He did this when he'd also realised that the benefits of the panels weren't what he'd been told they would be.

Ikano has made a 10-year loan to Mr W here. And he should reasonably have expected the panels to remain problem free for at least that time, given they don't generally require any maintenance. If that's not the case, then I would doubt whether the panels or their installation was of satisfactory quality in the first place. Inverters do often require replacement, at least once over the 25-year life of the system. But here F has said that it thinks the inverter is probably the reason for any tripping. So that appears to potentially have become faulty within, at the most, 2 years. That's not something that Mr W should reasonably have expected and so Ikano must send an expert out to inspect it and fix any problem that may be found.

Putting things right

Determining compensation in solar panel complaints isn't an exact science. I don't think it would be proportionate here for me to require the removal of the system and the return of Mr W's payments, less any benefit that he's had. The panels are still working, subject to tripping out from time to time.

Again, Ikano will be familiar with our approach to compensation in this type of complaint. We generally think it's fair compensation for Ikano to restructure the loan to make it self-funding. In that regard, Mr W will pay no more than the benefits that he receives from the system in terms of FIT, export payments and electricity savings over the original length of the loan. Ikano should use the actual system performance and income received where available and otherwise use this service's agreed standard assumptions for the balance of the loan term.

Mr W has been paying monthly instalments which are likely to be higher than those he would

have paid if the loan had been self-funding. I will require that Ikano calculate any overpayments and add to those simple interest at our usual rate of 8% from the date that they were paid until they are effectively repaid, to compensate Mr W for being deprived of the use of that money. I also think that Ikano should give Mr W the options that I've set out below as to how those overpayments are to be used.

Mr W will clearly have been upset and inconvenienced by the delays in Ikano dealing with his Section 75 claim. I don't think an apology was sufficient here. And I agree with our investigator that Ikano should pay Mr W £100 compensation to reflect how this made him feel.

My final decision

It's my final decision to uphold this complaint. I require that Ikano Bank AB (publ) do the following:

1. Recalculate the loan based on the known and assumed income and savings to Mr W over the 10-year term of the loan, so that he pays no more than that;
2. Allow Mr W to keep the solar system;
3. Arrange for an expert to inspect the system to determine the cause of the tripping and carry out any repairs necessary to fix it;
4. Calculate any overpayments made and add simple interest to them at 8%* a year from the time that they were paid until the date of settlement. Ikano should give Mr W the following options as to how he would like the overpayments and interest applied:
 - a. the overpayments and interest are used to reduce the outstanding balance of the loan and Mr W continues to make his current monthly payment resulting in the loan finishing early,
 - b. the overpayments and interest are used to reduce the outstanding balance of the loan and Mr W pays a new monthly payment until the end of the original loan term,
 - c. the overpayments and interest are returned to Mr W and he continues to make his current monthly payment resulting in the loan finishing early, or
 - d. the overpayments and interest are returned to Mr W and he pays a new monthly payment until the end of the original loan term; and
5. Pay Mr W £100 compensation for the distress and inconvenience caused.

*HM Revenue and Customs may require that Ikano deduct tax from any interest it pays. Should Mr W request it, Ikano must provide him with a certificate setting out the tax deducted, so that he may reclaim it if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 31 March 2022.

James Kennard
Ombudsman