

The complaint

Mr H has complained that Creation Consumer Finance Ltd (“Creation”) rejected his claim against it under section 75 of the Consumer Credit Act 1974 in relation to his purchase of some solar panels.

Background

Mr H bought solar panels for his home in or around October 2015. The purchase was funded by a loan from Creation, 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. She 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. Creation didn’t respond, so the case was referred for an ombudsman’s decision.

My findings

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

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

Creation 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, 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 Creation didn’t treat Mr H fairly and he lost out because of what Creation did wrong. And this means that it should put things right.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr H’s complaint for Creation 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 ten 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.

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

If the calculation shows there is a loss, then where the loan is ongoing, I require Creation to restructure the loan. It should recalculate the loan to put Mr H in a position where the solar panel system is cost-neutral over the ten year loan term.

Normally, by recalculating the loan this way, Mr H's monthly repayments would reduce, meaning that he would have paid more each month than he should have done, resulting in an overpayment balance. And as he would have been deprived of the monthly overpayment, I would expect a business to add simple interest at 8% a year from the date of the overpayment to the date of settlement.

Mr H settled the loan on 16 November 2018, so Creation must pay him the difference between what he paid in total and what the loan should have been under the restructure above, with interest at 8% a year.

If Mr H has settled the loan by refinancing, then he should promptly supply evidence of the refinance to Creation, and then (if Creation has not already paid him the compensation set out above) Creation must:

1. Refund the extra Mr H paid each month with the Creation 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 have 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 Creation that means the claim should have been upheld. I direct that Creation must pay £100 compensation for the inconvenience caused.

My final decision

For the reasons I've explained, I'm upholding this complaint. Creation Consumer Finance Ltd must 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 8 April 2022.

Richard Wood
Ombudsman