

The complaint

Mr S has complained that Creation Consumer Finance Ltd rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

What happened

Mr S bought solar panels for his home in May 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 S into believing that the panels would be self-funding, which they weren't.

Mr S's complaint was considered by one of our adjudicators. And he noted Creation had accepted the benefits of the panels were mis-represented to the consumer. And he recognised they had made an offer in line with what we'd recommend, for the loan to be restructured to effectively make the panels self-funding. So, he upheld the complaint on this basis and explained the restructure should be based on evidence of the actual performance of the panels, and a number of assumptions on future performance.

But Mr S rejected this outcome. And he explained he refinanced the loan provided by Creation in June 2018. So, he wanted the additional interest he incurred due to this to be taken into account by Creation. Our adjudicator agreed with this and recommended Creation consider this when re-calculating their offer to Mr S. But Creation didn't respond, so the complaint has been passed to an Ombudsman.

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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. 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 S was not given clear information to demonstrate that the solar panels would *not* be self-funding and would equate to an additional cost for his.

So, I think that Creation didn't treat Mr S 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 S's complaint for Creation to put things right by recalculating the original loan based on the known and assumed savings and income to Mr S 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. And this calculation should also factor in the additional interest Mr S had incurred due to the re-financing of the loan. If the event the calculation shows that Mr S is paying (or has paid) more than he should have Creation need to reimburse Mr S accordingly. Should the calculation show that the mis-presentation has not caused a financial loss, then the calculation should be shared with Mr S by way of explanation.

I've been told that Mr S has settled the loan by refinancing, and we have forwarded evidence of the refinance to Creation, so Creation should:

1. Refund the extra Mr S paid each month with the Creation loan.
2. Add simple interest from the date of each payment until Mr S receives his refund.
3. Refund the extra Mr S paid with the refinanced loan.
4. Add simple interest from the date of each payment until Mr S receives his refund.
5. Pay Mr S 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 S first contacted Creation that means the claim should have been upheld. I direct that Creation should pay £100 compensation for the trouble and upset caused.

My final decision

For the reasons outlined above, I uphold Mr S' complaint about Creation Consumer Finance Ltd and I direct them to take the actions I've set out in the decision above.

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

Josh Haskey
Ombudsman