

The complaint

Mrs W has complained that Tesco Personal Finance PLC ("TPF") rejected her claim against it under section 75 of the Consumer Credit Act 1974 in relation to her purchase of some solar panels.

She is represented in this complaint by a claims management company ("the CMC").

Background

Mrs W bought solar panels for her home in or around December 2015. She paid a deposit with a credit card provided by TPF (and paid for the rest of the purchase with cash). TPF is therefore liable for the acts and omissions of the installer under the relevant legislation. In this case, that relates to the installer misleading Mrs W into believing that the panels would be self-funding after ten years, which they weren't. The CMC calculated that the panels would actually take 17 years to pay for themselves.

Mrs W's complaint was considered by one of our adjudicators. She thought that the benefits of the panels were mis-represented to Mrs W, and that fair redress would be to effectively make the panels self-funding over a period of ten years, by paying Mrs W the difference between (1) what she had paid in total and (2) what she would instead have had to pay if the panels really had paid for themselves over a period of ten years – that is, the total savings and income from the panels over ten years. This calculation was to be based on evidence of the actual performance of the panels, and a number of assumptions on future performance. (She also said TPF should pay a further £100 for Mrs W's inconvenience, because it should have upheld her claim in the first place.)

TPF objected to this assessment, on the basis that the evidence the CMC had provided to show the feed-in tariff ("FIT") readings (which indicate the panels' actual performance) was not in a familiar format, and might have been fabricated by Mrs W or by the CMC, or could otherwise be unreliable. The adjudicator did not agree, as she accepted that this evidence had been provided to the CMC by Mrs W's utility provider and was reliable. Since no agreement could be reached, 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.

TPF 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 Mrs W was not given clear information to demonstrate that the solar panels would *not* be self-funding after ten years.

I think that TPF is liable for what the installer did wrong, and that it should put things right in the manner set out below.

Putting things right

Calculation of compensation

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mrs W's complaint for TPF to put things right by calculating the savings and income Mrs W is likely to receive from the solar panels over the period of ten years from the date of installation, based on what we now know about how they are performing (see below), and to pay her the difference between that amount and the total amount she paid for the panels (which was £6,718¹).

I also direct that interest must be paid on that sum at the rate of 8% a year (simple) from the date of the purchase (7 December 2015) to the date of settlement.

Mrs W may also keep the solar panel system, as removing it would be impractical and expensive.

Evidence of the panels' performance

The dispute about the FIT readings has been superseded by further evidence, in the form of a photograph Mrs W took of her meter in November 2021. The FIT evidence only went up to February 2020, so I'm satisfied that the photograph is the most recent and therefore most accurate evidence on the subject. The photo has already been shared with TPF, which has not objected to it. So I think it is fair to require TPF to base its calculation on this photograph.

The photograph was taken on 22 November 2021, and shows the meter displaying a reading of 11,714.83 kWh. I direct that TPF shall use this reading to carry out the calculation described above.

Award for inconvenience

Nevertheless, I still need to decide whether TPF had enough evidence to uphold Mrs W's claim at the time it was brought, in order to decide whether it should pay the £100 which the adjudicator recommended.

I have seen the email which Mrs W's utility provider sent to the CMC to provide the FIT readings (dated 4 May 2020; this has also been shared with TPF). While it is not impossible to forge an email, the CMC in this case is a solicitors' firm, and so I do not consider this to be a very likely scenario. I have no hesitation in accepting this evidence as accurate and reliable.

Those readings are identical to those which were provided to TPF initially. So I'm satisfied that there was sufficient information available at the time that the CMC first contacted TPF that means the claim should have been upheld. I therefore direct that TPF must pay Mrs W £100 compensation for the inconvenience caused.

My final decision

For the reasons I've explained, I'm upholding this complaint. Tesco Personal Finance PLC must put things right in the way I've set out above.

¹ This figure takes into account the 10% discount the installer gave Mrs W on the panels.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 4 April 2022.

Richard Wood
Ombudsman