

## **The complaint**

Mrs O has complained that Ikano Bank AB (publ) ("Ikano") rejected her claim against it under section 75 of the Consumer Credit Act 1974 in relation to her purchase of some solar panels.

## **Background**

Mrs O bought solar panels for her home in or around December 2018. The purchase was funded by a loan from Ikano, 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 Mrs O into believing that the panels would be self-funding, which they weren't, and telling her that the installer would register her feed-in tariff ("FIT") for her, which it didn't.

Mrs O's complaint was considered by one of our adjudicators. He thought that the benefits of the panels were mis-represented to Mrs O, 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.

Ikano accepted this decision, but subsequently made an offer of compensation which our adjudicator said did not conform to what he had recommended. Since an agreement could not be reached, the case was referred for an ombudsman's decision.

I wrote a provisional decision, which read as follows.

## **What I've provisionally 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.

Ikano 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.

Since Ikano has accepted that this complaint should be upheld on the ground that the panels are not self-funding, and that this was not made clear to Mrs O, I do not need to consider that point. I uphold this complaint on that basis.

I have, however, considered the second complaint point, namely that the installer told Mrs O it would register her FIT for her, but I have seen no evidence to support that and it is not how the FIT scheme worked, so on the balance of probabilities, I do not think it is likely she was told that.

It now only remains for me to decide how Mrs O should be compensated.

## Putting things right

### Introduction

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mrs O's complaint for Ikano to put things right by recalculating the original loan based on the known and assumed savings and income to Mrs O from the solar panels over the ten year term of the loan so she pays no more than that, and she keeps the solar panel system, and any future benefits once the loan has ended.

If the calculation shows that Mrs O is paying (or has paid) more than she should have, then Ikano needs to reimburse her accordingly. (Should the calculation show that the misrepresentation has not caused a financial loss, then the calculation should be shared with her by way of explanation – but I consider this to be unlikely.)

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

*[I have omitted the final paragraph of this section because I have changed my mind about it. I will explain why at the end of my final decision.]*

### The calculation

In its latest correspondence with the adjudicator, Ikano said that it had calculated the redress in its offer based on the following figures:

“Based on the information provided, I can see installation was completed on 11/12/2018 and the meter reading from 20/03/2020 shows a generation of 8986.98 kWh. This equates to 465 days of generation and gives an average of 2513.13 kWh per annum, from which my calculations are based.”

However, I do not think that can be right. Such a high reading after such a short time is very implausible. I am reinforced in that view by the fact that the estimate on the MCS certificate is only 2742 kWh.

In September 2020 Ikano provided us with a copy of a report about Mrs O's panels, prepared by the Energy Performance Validation Scheme (EPVS), dated 6 April 2020. It says, in paragraph 5.1:

“The Claimant has provided a meter reading, the meter shows 3201.67 kWh. They have taken a photo of the date that the photo was created (20/02/2020). Using the commissioning date from the MCS certificate of 11/12/2018 and a Solar PV calculator that breaks down the generation each month, the annual generation is 3016 kWh (Appendix 2).

The system is therefore performing over the Retailer's estimate of 2742 by approximately 274 kWh.”

Ikano used the same meter reading, 3201.67 kWh, in an earlier email to our adjudicator (on 1 December 2021):

“Based on the information provided, I can see installation was completed on 11/12/2018 and the meter reading provided is dated 20/03/2020 (*sic*)<sup>1</sup> with a total

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<sup>1</sup> I accept the date used by EPVS, 20 February, is correct, because EPVS saw the photo of the meter.

generation of 3201.67 kWh. This equates to 465 days of generation and gives an average of 2513.13 kWh per annum, from which my calculations are based."

Neither party has shared direct evidence of the meter reading with me, but I think that a reading of 3201.67 kWh after a little over a year is plausible, and I accept it.

However, I do not accept either Ikano's or the EPVS's calculations of an average generation of 2513.13 or 3016 kWh per year. Neither of them has clearly set out how they reached their figures. So I have calculated it myself, as follows:

Difference between 11 December 2018 and 20 February 2020 = 436 days

3201.67 divided by 436 = 7.34 (daily generation figure)

7.34 times 365 days = **2679.10** kWh per year

I will therefore direct Ikano to recalculate the redress based on an annual generation figure of 2,679.10 kWh.

Ikano should assume that Mrs O will use 37% of the energy generated by the system.

#### Interest

Normally, by recalculating the loan this way, Mrs O's monthly repayments would reduce, meaning that she would have paid more each month than she should have done, resulting in an overpayment balance. And as she 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. So I will order Ikano to do that.

#### Options for how compensation is to be paid

I think the fairest resolution would be to let Mrs O have the following options as to how she would like her overpayments to be used:

- a) the overpayments are used to reduce the outstanding balance of the loan and she continues to make her current monthly payment resulting in the loan finishing early,
- b) the overpayments are used to reduce the outstanding balance of the loan and she pays a new monthly payment until the end of the loan term,
- c) the overpayments are returned to Mrs O and she continues to make her current monthly payment resulting in her loan finishing early, or
- d) the overpayments are returned to Mrs O and she pays a new monthly payment until the end of the loan term.

If Mrs O accepts my decision, she should indicate on the acceptance form which option she wishes to accept.

If Mrs O has settled the loan, Ikano should pay her the difference between what she paid in total and what the loan should have been under the restructure above, with interest at 8% a year.

If Mrs O has settled the loan by refinancing, she should supply evidence of the refinance to Ikano, and then Ikano must:

1. Refund the extra Mrs O paid each month with the Ikano loan.
2. Add simple interest from the date of each payment until Mrs O receives her refund.

3. Refund the extra Mrs O paid with the refinanced loan.
4. Add simple interest from the date of each payment until Mrs O receives her refund.
5. Pay Mrs O the difference between the amount now owed and the amount she would have owed if the system had been self-funding.

#### Award for inconvenience

I'm satisfied that there was sufficient information available at the time that Mrs O first contacted Ikano that means the claim should have been upheld. I direct that Ikano must pay £100 compensation for the inconvenience caused.

#### **Responses to my provisional decision, and my findings**

Mrs O accepted my provisional decision. Ikano did not reply.

Although it is not the installer's fault that Mrs O was not registered for FIT payments (and in my provisional findings I said that consequently Ikano should not have to reimburse her for not receiving the FIT payments), on further reflection I think that Mrs O would not be in that position but for the misrepresentation. So I now think it would be fair to require Ikano to carry out the redress calculation on the basis that Mrs O should not be out of pocket, and that the loan should be restructured so as to make the panels pay for themselves, taking into account (in Mrs O's favour) that she has not been receiving FIT payments.

(As this is the approach my ombudsman colleagues have been following in similar cases, and Ikano will be familiar with that approach, I do not think it is necessary for me to write a second provisional decision dealing with that point before proceeding to a final decision. Ikano has had the opportunity to argue against that approach in other cases, and I think that my approach should be consistent with the approach followed in like cases.)

Subject to that alteration, there is no other reason for me to depart from my provisional findings, and I confirm them here.

#### **My final decision**

For the reasons I've explained, I'm upholding this complaint. Ikano Bank AB (publ) 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 Mrs O to accept or reject my decision before 28 April 2022.

Richard Wood  
**Ombudsman**