

The complaint

Mrs C complains that NewDay Ltd (“NewDay”), has rejected the claim she made under section 75 of the Consumer Credit Act 1974 (“the Act”) in relation to a solar panel system she says were misrepresented to her by the supplier.

Mrs C is represented by a claims management company (“the CMC”).

What happened

Mrs C bought solar panels for her home in 2014. The purchase was funded by two credit cards, one of which was provided by NewDay. NewDay is therefore liable for the acts and omissions of the installer under the relevant legislation. In this case, that relates to the installer allegedly misleading Mrs C into believing that the panels would pay for themselves within five years.

NewDay rejected the claim. It said there is nothing to confirm what Mrs C has alleged. And the sales documents showed potential benefits in year one and over 20 years. NewDay says there is nothing to suggest this was not a reasonable estimate.

One of our adjudicators looked into what had happened. She said that the costs and benefits of the system had been clearly shown on the sales documents, and the evidence provided confirmed that the system had performed in line with expectations. As such she did not think there had been a misrepresentation on the part of the installer and did not think the complaint should be upheld.

The CMC replied to say it disagreed but didn’t give any reasons. As an agreement couldn’t be reached, the case has been passed to me for review.

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.

NewDay and the CMC are 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.

Key documents

The sales contract, entitled “solar assessment survey”, included the following information about the system.

YOUR POTENTIAL INCOME/SAVINGS OPTION 2		
TOTAL UNITS GENERATED kWh Per year 1922	CURRENT FEED IN TARIFF 14.38	INCOME FROM FEED IN TARIFF YEAR 1 £ 276.38
TOTAL UNITS SAVED AT 50% USAGE 961	ESTIMATED UNIT COST OF ENERGY £0.154**	SAVINGS FROM ELECTRICITY USED YEAR 1 £ 148.38
TOTAL UNITS EXPORTED kWh Per year 961	CURRENT FEED IN TARIFF 4.77	INCOME FROM EXPORT TARIFF YEAR 1 £ 45.84
TOTAL POTENTIAL INCOME YEAR 1		£ 470.60
TOTAL POTENTIAL INCOME OVER 20 YEARS (ASSUMES +3.5% RPI + 5% FUEL - 1 % EFFICIENCY P/A)*		£ 12,597.72
*RPI (1986 - 2010) *FUEL / DECC (02/2012)		£ 8330
TOTAL COST OF SYSTEM INC VAT AT 5%*		

I think this clearly shows the system was expected to generate 1,922 kWh of electricity per year, the cost of the system was £8,330.00, the first-year benefit through income and savings was estimated at £470.60, and the 20-year benefit was estimated to be £12,597.72.

I've no reason to think the FIT rates quoted were incorrect, and they seem to match up to the rates shown on the limited FIT statements that have been provided to us. So, as long as the system is performing in line with expectations (generating around 1,922 kWh per year) I would have no reason to think that the estimated FIT income was misrepresented.

The savings from electricity used is less certain as this would depend heavily on Mrs C's usage. The 20-year benefits figure would also depend on inflation (retail price index for FIT income and fuel inflation for savings) being in line with the installer's assumptions.

However, I have seen nothing in the sales documents to suggest that the system would pay for itself within five years. And, given the cost of the system compared to the estimated benefit over 20 years, it would appear very unlikely that would be the case. Given the documentary evidence, I am not persuaded that it is likely that Mrs C was told the system would pay for itself within five years.

Performance

I have looked at Mrs C's FIT statements and can see that her system, between March 2017 and March 2018, has generated 2,294 kWh. This is slightly more than estimated by P at the point of sale, so I'm satisfied that the system is performing as expected given you would expect some deterioration in performance over the years.

I have also looked at the assumptions used by the installer, including the expected annual increase in utility prices, and expected annual RPI inflation rate. These assumptions do not seem unreasonable given historic rates.

It may be that inflation has been less than assumed by the installer at the time of sale. And this may explain why Mrs C does not feel she is getting the benefits she expected.

Summary

Having carefully considered the evidence provided by all parties in this complaint, I'm

satisfied that there were no untrue statements of fact made by the installer that induced Mrs C to enter into the contract for the system, and I have found no other reason to uphold this complaint.

My final decision

My final decision is that I do not uphold Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 7 April 2022.

Phillip Lai-Fang
Ombudsman