DRN-3373799

The complaint

Mr C has complained that Shawbrook Bank Limited rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

What happened

Mr C bought solar panels for his home in 2015. The purchase was funded by a loan from Shawbrook, 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 C into believing that the panels would be self-funding, which they weren't.

Mr C's complaint was considered by one of our adjudicators. They thought that the benefits of the panels were mis-represented to Mr C, and that fair redress would be for the loan to be restructured to make the panels cost no more than the benefit they would provide over a ten-year period. This restructure should be based on evidence of the actual performance of the panels, and a number of assumptions on future performance. Shawbrook didn't respond so the case was 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.

Shawbrook 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 C 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 Shawbrook didn't treat Mr C fairly and he lost out because of what Shawbrook 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 C's complaint for Shawbrook to put things right by recalculating the original loan based on the known and assumed savings and income to Mr C from the solar panels over a ten-year period so he pays no more than that, and he keeps the solar panel system, and any future benefits once the loan has ended.

In the event the calculation shows that Mr C is paying (or has paid) more than he should have, then Shawbrook 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 Mr C by way of explanation.

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

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

So, I think the fairest resolution would be to let Mr C have the following options as to how he would like his overpayments to be used:

A. the overpayments are used to reduce the outstanding balance of the loan and he continues to make his current monthly payment resulting in the loan finishing early,
B. the overpayments are used to reduce the outstanding balance of the loan and he pays a new monthly payment until the end of the loan term,
C. the overpayments are returned to Mr C and he continues to make his current monthly payment resulting in his loan finishing early, or
D. the overpayments are returned to Mr C and he pays a new monthly payment until the end of the loan term.

If Mr C accepts my decision, he should indicate on the acceptance form which option he wishes to accept.

If Mr C has settled the loan, Shawbrook should pay him the difference between what he paid in total and what the loan should have been under the restructure above, with 8% interest.

If Mr C has settled the loan by refinancing, he should supply evidence of the refinance, to Shawbrook and Shawbrook should:

1. Refund the extra Mr C paid each month with the Shawbrook loan.
2. Add simple interest from the date of each payment until Mr C receives his refund.
3. Refund the extra Mr C paid with the refinanced loan.
4. Add simple interest from the date of each payment until Mr C receives his refund.
5. Pay Mr C the difference between the amount now owed and the amount he would've owed if the system had been self-funding over a ten-year period.

I'm satisfied that there was sufficient information available at the time that Mr C first contacted Shawbrook that means the claim should have been upheld. I direct that Shawbrook should pay £100 compensation for the trouble and upset caused.

My final decision

For the reasons I've explained, I'm upholding Mr C's complaint. Shawbrook Bank Limited should 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 C to accept or reject my decision before 26 April 2022.

Phillip Lai-Fang

Ombudsman