

## **Complaint**

Mrs R has complained that Omni Capital Retail Finance Limited (“OCRF”) rejected her claim against it under Section 75 of the Consumer Credit Act 1974.

## **Background**

Mrs R bought solar panels for her home in 2018. The purchase was funded by a loan from OCRF, 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 R into believing that the panels would be self-funding, which they weren’t.

Mrs R’s complaint was considered by one of our investigators. She thought that the benefits of the panels were mis-represented to Mrs R, 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.

OCRF initially responded agreeing with our investigator’s view of the complaint and made an offer to settle it. But our investigator pointed out that it hadn’t worked out redress in line with our established approach to these types of cases, so she asked it to revise its offer. At this time OCRF replied explaining it had been in touch with the installer and was now reviewing the complaint again.

Our investigator explained that, as OCRF hadn’t agreed with her view and made an offer in line with our approach, the case would be passed for a final decision. She asked for OCRF to provide any final submissions following its review. OCRF didn’t respond so the case was passed to an ombudsman.

## **My findings**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

OCRF 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.

I appreciate OCRF most recently said it was in contact with the installer to review the case. But I can see the original complaint was raised by Mrs R (through her representatives) in early 2020. So, I think OCRF has had sufficient time to fully investigate this complaint and provide its response. And it hasn’t since responded to our investigators request for final submissions within the specified deadline. So, I’ve reviewed this case based on the available evidence.

Mrs R’s testimony is that she was led to believe that the solar panel system would be self-funding and that the finance would be paid off during the term of the loan. I’ve looked at the expected returns document which was used to explain the benefit she could expect to

receive from the solar panel system. As explained by our investigator, the figures are confusing with no explanation as to how they were reached. I also note that, in the comparison box below, where the expected monthly benefit is compared with the monthly cost, the shortfall section has been crossed out, indicating there would be no shortfall.

		£	-	NOT INCLUDING ENERGY SWITCH	
Monthly Payment (DEP, £				Monthly Benefit	Shortfall
110.16 10 years				£71.47 - £50.19	£

As explained by our investigator, the estimated returns document includes many facts and figures which do not appear to correspond with one another. I don't think Mrs R could've made sense of this document independently and she would have likely depended on the verbal explanations given to her by the installer. And she says she was told that the benefit received from the solar panels would pay off the finance within the loan term.

Having carefully considered everything provided, for the same reasons as those explained by the investigator, I uphold this case. In brief, that is because the evidence supports the conclusion that a misrepresentation took place and Mrs R was not given clear information to demonstrate that the solar panels would *not* be self-funding and would equate to an additional cost for her.

So, I think that OCRF didn't treat Mrs R fairly and she lost out because of what OCRF did wrong. And this means that it should put things right.

### **Fair compensation – what OCRF needs to do to put things right for Mrs R**

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mrs R's complaint for OCRF to put things right by recalculating the original loan based on the known and assumed savings and income to Mrs R from the solar panels over the 10 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.

In the event the calculation shows that Mrs R is paying (or has paid) more than she should have OCRF needs to reimburse Mrs R accordingly. Should the calculation show that the misrepresentation has not caused a financial loss, then the calculation should be shared with Mrs R by way of explanation.

If the calculation shows there is a loss, then where the loan is ongoing, I require OCRF to restructure Mrs R's loan. It should recalculate the loan to put Mrs R in a position where the solar panel system is cost neutral over the 10-year loan term.

Normally, by recalculating the loan this way, Mrs R's monthly repayments would reduce, meaning that she would've paid more each month than she 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 Mrs R 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 R and she continues to make her current monthly payment resulting in her loan finishing early, or
- d) the overpayments are returned to Mrs R and she pays a new monthly payment until the end of the loan term.

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

If Mrs R has settled the loan, OCRF should pay Mrs R the difference between what she paid in total and what the loan should have been under the restructure above, with 8% interest.

If Mrs R has settled the loan by refinancing, Mrs R should supply evidence of the refinance to OCRF, and OCRF should:

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

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

### **My final decision**

For the reasons I've explained, I'm upholding Mrs R's complaint. Omni Capital Retail Finance 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 Mrs R to accept or reject my decision before 11 May 2022.

Asma Begum  
**Ombudsman**