

Complaint

Mr M has complained that Omni Capital Retail Finance Limited rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

Background

Mr M bought solar panels for his home in 2017. The purchase was funded by a loan from OCR, 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 M into believing that the panels would be self-funding, which they weren't.

Mr M's complaint was considered by one of our investigators. She thought that the benefits of the panels were mis-represented to Mr M, 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.

OCR responded and agreed with our investigators view of the complaint. But it didn't make an offer to settle the complaint in line with our established approach to redress in these types of cases. As OCR didn't settle the case in line with our investigator's view, 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.

OCR 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 M 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. I understand OCR appeared to accept this on review of our investigators view of the complaint.

So, I think that OCR didn't treat Mr M fairly and he lost out because of what OCR did wrong. And this means that it should put things right.

Fair compensation – what OCR needs to do to put things right for Mr M

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

over a 10-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.

I've decided the redress should be calculated over a 10-year period, rather than the 7-year term of Mr M's loan. This is because I need to ensure the redress is fair and reasonable to both Mr M and OCR.

Because Mr M can expect to benefit from the solar panels (through energy savings and Feed-In Tariff payments) for 20 years, I think a 10-year period is reasonable when calculating the redress. In this specific case, I do not think a shorter period would strike the appropriate balance in terms of fairness.

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

If the calculation shows there is a loss, then where the loan is ongoing, I require OCR to restructure Mr M's loan. It should recalculate the loan to put Mr M in a position where the solar panel system is cost neutral over a 10-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 M 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 M and he continues to make his current monthly payment resulting in his loan finishing early, or
- D. the overpayments are returned to Mr M and he pays a new monthly payment until the end of the loan term.

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

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

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

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

My final decision

For the reasons I've explained, I'm upholding Mr M'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 Mr M to accept or reject my decision before 2 June 2022.

Asma Begum
Ombudsman