

The complaint

Ms D has complained that Shawbrook Bank Limited rejected her claim against it under Section 75 of the Consumer Credit Act 1974.

What happened

Ms D bought solar panels for her 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 Ms D into believing that the panels would be self-funding, which they weren't.

Ms D's complaint was considered by one of our adjudicators. They thought that the benefits of the panels were mis-represented to Ms D, 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 accepted this. It said it had intended to make an offer in April 2021 but it appears that offer was not communicated to Ms D. Shawbrook asked that Ms D provide updated feed-in tariff statements so it can recalculate the offer. However, as it has been so long since our adjudicator assessed the complaint, I've been asked to make a decision to confirm what Shawbrook must do to put things right.

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.

Shawbrook has accepted our adjudicator's assessment that the complaint should be upheld. So, I don't need to decide whether there was a misrepresentation – as that has been accepted – only what must happen to put things right.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Ms D's complaint for Shawbrook to put things right by recalculating the original loan based on the known and assumed savings and income to Ms D from the solar panels over a ten-year period 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 Ms D is paying (or has paid) more than she should have, then Shawbrook 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 Ms D by way of explanation.

If the calculation shows there is a loss, then where the loan is ongoing, I require Shawbrook to restructure Ms D's loan. It should recalculate the loan to put Ms D 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 Ms D 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 Ms D and she continues to make her current monthly payment resulting in her loan finishing early, or
- D. the overpayments are returned to Ms D and she pays a new monthly payment until the end of the loan term.

If Ms D accepts my decision, she should indicate on the acceptance form which option she wishes to accept. And provide a copy of her latest FIT statement or dated meter reading so the settlement can be based on her actual electricity generation.

If Ms D has settled the loan, Shawbrook should pay her the difference between what she paid in total and what the loan should have been under the restructure above, with 8% interest.

If Ms D has settled the loan by refinancing, she should supply evidence of the refinance, to Shawbrook and Shawbrook should:

- 1. Refund the extra Ms D paid each month with the Shawbrook loan.
- 2. Add simple interest from the date of each payment until Ms D receives her refund.
- 3. Refund the extra Ms D paid with the refinanced loan.
- 4. Add simple interest from the date of each payment until Ms D receives her refund.
- 5. Pay Ms D the difference between the amount now owed and the amount she 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 Ms D 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 Ms D'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 Ms D to accept or reject my decision before 31 August 2022.

Phillip Lai-Fang
Ombudsman