

The complaint

Miss M has complained that Shawbrook Bank Limited (“Shawbrook”) rejected her claim against it under section 75 of the Consumer Credit Act 1974 in relation to her purchase of some solar panels.

Background

Miss M bought solar panels for her home in December 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 Miss M into believing that the panels would be self-funding, which they weren't.

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

Shawbrook didn't substantively respond by the deadline, so the case was referred for an ombudsman's decision.

My findings

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 Miss 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 her.

So I think that Shawbrook didn't treat Miss M fairly and she 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 Miss M's complaint for Shawbrook to put things right by recalculating the original loan based on the known and assumed savings and income to Miss M from the solar panels over the ten 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 order to calculate that accurately, Shawbrook will need to be provided with up to date feed-in tariff (FIT) statements and electricity statements. Those which have already been provided only go up to June 2020 and May 2019, respectively. So Miss M will need to provide FIT and electricity statements for the periods since then up to summer 2022. On receipt of those, Shawbrook will then carry out the required calculation. But to encourage prompt production of those statements (which have already been requested), I will only award interest on the compensation for the period ending with the date of this decision, 10 October 2022.

If the calculation shows that Miss M is paying (or has paid) more than she should have, then Shawbrook must reimburse her accordingly. Should the calculation show that the misrepresentation has not caused a financial loss, then the calculation must be shared with her by way of explanation.

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

Normally, by recalculating the loan this way, Miss M's monthly repayments would reduce, meaning that she would have paid more each month than she should have done, resulting in an overpayment balance. And as she would have been deprived of the monthly overpayment, I require Shawbrook to add simple interest at 8% a year from the date of the overpayment to the date of this decision. So I think the fairest resolution would be to let Miss M 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 Miss M and she continues to make her current monthly payment resulting in her loan finishing early, or
- d) the overpayments are returned to Miss M and she pays a new monthly payment until the end of the loan term.

If Miss M accepts my decision, she should indicate on the acceptance form which option (a, b, c or d) she wishes to accept.

If Miss M 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 interest at 8% a year (from the date of overpayment to the date of this decision).

If Miss M has settled the loan by refinancing, she should supply evidence of the refinance to Shawbrook, and then Shawbrook must:

1. Refund the extra Miss M paid each month with the Shawbrook loan.
2. Add simple interest at 8% p.a. from the date of each payment until 10 October 2022.
3. Refund the extra Miss M paid with the refinanced loan.
4. Add simple interest at 8% p.a. from the date of each payment until 10 October 2022.
5. Pay Miss M the difference between the amount now owed and the amount she would have owed if the system had been self-funding.

I'm satisfied that there was sufficient information available at the time that Miss M first contacted Shawbrook that means the claim should have been upheld. I direct that Shawbrook must pay £100 compensation for the inconvenience caused.

My final decision

For the reasons I've explained, I'm upholding this complaint. Shawbrook Bank Limited must put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 November 2022.

Richard Wood
Ombudsman