

The complaint

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

Background

Mr A bought solar panels for his home in March 2017. 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 A into believing that the panels would be self-funding, which they weren’t.

Mr A’s complaint was considered by one of our adjudicators. She thought that the benefits of the panels were mis-represented to Mr A, 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 respond by the extended 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 Mr A 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 A fairly and he lost out because of what Shawbrook did wrong. And this means that it should put things right.

I have noted that two third party companies were involved in installing the panels. But as the same person was the director of both companies, I am satisfied that the companies were associates of each other within the meaning of sections 184 and 187 of the Act, and so section 75 still applies.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr A’s complaint for Shawbrook to put things right by recalculating the original loan based on the known and assumed savings and income to Mr A from the solar panels over the ten year term of the loan so he pays no more than that, and he keeps the solar panel system, and any future benefits once the loan has ended.

If the calculation shows that Mr A 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 him 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 Mr A in a position where the solar panel system is cost-neutral over the ten year loan term.

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

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

I'm satisfied that there was sufficient information available at the time that Mr A 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 Mr A to accept or reject my decision before 20 October 2022.

Richard Wood

Ombudsman