

## Complaint

Mr S has complained that Shawbrook Bank Limited (“Shawbrook”) rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

## Background

Mr S bought solar panels for his 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 Mr S into believing that the panels would be self-funding, which they weren't.

Mr S's complaint was considered by one of our adjudicators. She thought that the documents provided by the installer had made it clear that the panels would not be self-funding, so it's unlikely that Mr S has been told the panels would be self-funding.

Mr S (through his representatives didn't agree) and pointed out that the sales document actually shows that the panels would be self-funding from the outset and is consistent with Mr S's testimony.

As an agreement couldn't be reached, the case has been passed to me for review.

In my provisional decision of 2 September 2022, I set out why I was intending to uphold the complaint. I invited both parties to provide any further submissions they may wish to make before I reached a final decision. Shawbrook replied accepting my provisional findings and requested copies of Mr S's utility bills and Feed in tariff (FIT) statements to enable it to carry out a redress calculation. Mr S nor his representatives made any further comments.

## My findings

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

In my provisional decision I explained the following:

*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.*

*I understand that our adjudicator felt the sales document provided by the installer showed the panels would not be self-funding from the start. However, I don't agree.*

*The system analysis page of the quote sets out the estimated income Mr S could expect to receive by way of FIT payments from the system. This is split out into the expected FIT payments in the first year and the expected average income over 20 years. The FIT scheme only provides payments for a 20-year period.*

#### Feed in tariff - year 1

Generation tariff in year 1	£ 500.67
Export tariff in year 1	£ 107.44
Total income in year 1	£ 608.11

*I think that the table is clear, and that Mr S could expect to receive a total FIT income in year one of £608.11. The quote goes on to look at the electricity savings Mr S could expect from the system. The expected year one electricity savings is £517.39 and, when taking into account the optional extra's chosen by Mr S the combined income and savings in year one is shown as £1,561.50. This is shown in a table titled 'Putting it all together.'*

*I'm satisfied that the credit agreement and the quote set out that there would be a monthly loan repayment due of £127.15, and 12 months of payments equals £1,525.80 which is less than the income and savings Mr S was told he could expect to achieve. The quote does, therefore, indicate the total benefit Mr S was told he would likely achieve (in FIT payments and savings on his energy bills), would cover his finance payments.*

*Additionally, there's a section headed 'Repayments' with three table showing repayments over 60 months, 120 months and 180 months. I've focused on the table for 180 months this is the length of the loan that Mr S entered into with Shawbrook. This table shows the loan as repayable in 180 monthly payments of £127.15. For each year of the 15-year loan it shows the expected grand total return from the system. It then averages that figure over 12 months, and subtracts the monthly loan repayment of £127.15, to give an average difference between the monthly return from the system and the monthly loan repayment in each year.*

#### 180 payments of £127.15 p/m

Yr	Acc. grand total	Est. monthly return	Average monthly repayment diff.
1	£1,561.50	£130.13	£4.48
2	£1,660.98	£138.41	£12.76
3	£1,767.78	£147.31	£21.66
4	£1,882.48	£156.87	£31.22
5	£2,005.73	£167.14	£41.49
6	£2,138.19	£178.18	£52.53
7	£2,280.60	£190.05	£64.40
8	£2,433.77	£202.81	£77.16
9	£2,598.54	£216.54	£90.89
10	£2,775.87	£231.32	£105.67
11	£2,966.75	£247.23	£121.58
12	£3,172.28	£264.36	£138.71
13	£3,393.66	£282.81	£157.16
14	£3,632.14	£302.68	£177.03
15	£3,889.14	£324.09	£198.44

*I think the table clearly sets out the benefit Mr S could expect to receive from the system, by way of FIT payments and savings, as well as his expected contractual monthly loan repayments. I think he was entitled to rely on it. The table does clearly set out that the overall income he could expect to receive by way of FIT income and any additional savings would immediately be sufficient to cover the monthly loan repayments, and actually make a profit*

*too. The table above shows that the system was expected to pay for itself from the first month following installation, with an average monthly profit during the first year of £4.48.*

*Mr S has said he was verbally told that the benefit he would receive by way of FIT payments and additional savings would cover his monthly finance costs, and this is why he bought the system. Mr S's testimony has been clear and consistent.*

*I think the quote is good evidence of the likely discussions Mr S would have had with the installer. And it seems to corroborate Mr S's testimony, that he was told the financial benefits provided by the system would cover his monthly costs from the outset.*

*But it has since turned out that that did not happen. Based on the FIT statements and utility bills provided by Mr S, Mr S's yearly benefit has been around £1,014.23 (taken from his first-year FIT payment of £598.72 and average first year electricity saving of £415.51).*

*So, having reviewed everything provided, I currently think the evidence supports the conclusion that a misrepresentation took place and Mr S 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 S fairly and he lost out because of what Shawbrook did wrong. And this means that it should put things right.*

In the absence of any new points for me to consider, I find no reason to depart from my original findings as set out in my provisional decision. With this in mind, I uphold this complaint.

### **Fair compensation – what Shawbrook needs to do to put things right for Mr S**

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr S's complaint for Shawbrook to put things right by recalculating the original loan based on the known and assumed savings and income to Mr S from the solar panels over the 15-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.

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

If the calculation shows there is a loss, then where the loan is ongoing, I require Shawbrook to restructure Mr S's loan. It should recalculate the loan to put Mr S in a position where the solar panel system is cost neutral over the 15-year loan term.

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

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

If Mr S has settled the loan, Shawbrook should pay Mr S the difference between what he paid in total and what the loan should have been under the restructure above, with 8% interest.

If Mr S has settled the loan by refinancing, Mr S should supply evidence of the refinance to Shawbrook, and Shawbrook should:

1. Refund the extra Mr S paid each month with the Shawbrook loan.
2. Add simple interest from the date of each payment until Mr S receives his refund.
3. Refund the extra Mr S paid with the refinanced loan.
4. Add simple interest from the date of each payment until Mr S receives his refund.
5. Pay Mr S 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 S first contacted Shawbrook that means the claim should have been upheld. I direct Shawbrook to pay £100 compensation for the trouble and upset caused.

### **My final decision**

For the reasons explained, I uphold this 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 Mr S to accept or reject my decision before 26 October 2022.

Asma Begum  
**Ombudsman**