

Complaint

Mr T has complained that Ikano Bank AB (publ) ("Ikano") rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

Background

Mr T bought solar panels for his home in 2019. The purchase was funded by a loan from Ikano, 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 T into believing that the panels would be self-funding, which they weren't, and that he would receive payments from the Feed in Tariff (FIT), which he couldn't.

Mr T's complaint was considered by one of our investigators. She thought that the benefits of the panels were mis-represented to Mr T. She said that Mr T was led to believe the solar panels would be self-funding, and that he'd receive payments from the FIT scheme. She felt that fair redress would be for the loan to be restructured to make the panels cost no more than the benefit it 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.

Ikano didn't agree. It felt that there was no evidence Mr T had been told the panels would be self-funding, and that the sales contract did not mention any FIT payments – so it didn't feel it was likely Mr T had been mis-led.

As an agreement couldn't be reached, so 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.

Ikano 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 Ikano says that the cash price of the system (£6,000) was set out on the same sales document as the total estimated annual benefit of between £116.09 and £232.17 which it says ought to have made Mr T aware that the panels would not be self-funding.

I have reviewed the document referred to by Ikano and can see that the cash price and the estimated returns are amongst an array of different facts and figures and not directly next to each other, not highlighted or easily comparable. I think given Mr T's lack of experience in solar panels and energy generation figures, he still would have required help in understanding what these facts and figures meant.

Additionally, there's nothing on this document that mentions the finance, the likely monthly or yearly repayments or the term of the loan. So, in order to compare the benefits with the cost,

Mr T would still have to look at his finance agreement and calculate the yearly payments to deduce that the estimated annual benefits would unlikely cover the cost of the loan.

Mr T's testimony has been clear and consistent throughout, so in my view, its reliable evidence of what he was likely told during the sale. I think it was reasonable for Mr T to rely on what he was being told. And I'm not persuaded that this document independently is clear enough to demonstrate that Mr T was told the panels would not be self-funding. As explained above, he'd have to look at multiple documents, and carry out calculations to figure out that the panels would not be self-funding.

Having carefully considered everything provided, for the same reasons as those explained by the investigator, I uphold this case. In brief, that is because the evidence supports the conclusion that a misrepresentation took place and Mr T 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.

Feed in Tariff (FIT)

Mr T has said the he was told he would receive payments from the FIT scheme, and he adds the paperwork he was given also indicated that he could apply for it. But Mr T bought his solar panels in October 2019 and the FIT scheme closed to new applicants in March 2019.

I can see the installers website was still advertising the FIT scheme in October 2019 as a potential benefit consumers could apply for – and this is exactly what Mr T says he was told. I appreciate Ikano says that the installer simply forgot to update its website to remove the FIT scheme but the sales contract makes no mention of FIT payments so it doesn't think the installer mis-led Mr T into believing that he would receive FIT payments.

Having reviewed everything provided by both parties, I'm persuaded that its more likely Mr T was told he would receive FIT payments and he bought the solar panels on that basis.

Mr T's testimony about this issue has been consistent, and the installers were clearly still advertising the FIT scheme as a benefit around the time Mr T bought his solar panels, despite the scheme having been closed for some seven months. As explained above, the sales contract is not easy to understand and has an array of facts and figures, so I think Mr T would have been reliant on what he was being told.

Overall, I'm more persuaded that Mr T's testimony, in conjunction with the installer's own website, is more reliable evidence of what likely happened during the sale.

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

Fair compensation – what Ikano needs to do to put things right for Mr T

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr T's complaint for Ikano to put things right by recalculating the original loan based on the known and assumed savings and income to Mr T 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.

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

If the calculation shows there is a loss, then where the loan is ongoing, I require Ikano to restructure Mr T's loan. It should recalculate the loan to put Mr T 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.

Usually the recalculation would include a reduction for the benefit a consumer has received from the solar panel system including payments received from the Feed in Tariff (FIT) scheme. But as explained above, Mr T's solar panels were not registered for the FIT scheme and he has not received any payments from this scheme. So, in these circumstances, I don't think it's fair that any FIT payments (assumed or otherwise) are included in the recalculation.

So, I think the fairest resolution would be to let Mr T 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 T and he continues to make his current monthly payment resulting in his loan finishing early, or
- D. the overpayments are returned to Mr T and he pays a new monthly payment until the end of the loan term.

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

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

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

My final decision

For the reasons I've explained, I'm upholding Mr T's complaint. Ikano Bank AB (publ) 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 T to accept or

reject my decision before 17 November 2022.

Asma Begum
Ombudsman