

Complaint

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

Background

Miss N bought a solar panel system (the system) for her 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 Miss N into believing that the system would be self-funding, which they weren't.

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

Ikano initially accepted our adjudicators view of the complaint and made an offer. The redress calculation was challenged by Miss N's representative to ensure it was calculated in line with our established approach to redress in these types of cases.

In response, Ikano withdrew its offer saying it felt the documents had made it clear the system would not be self-funding.

The case was then reviewed by an investigator and she agreed with our initial adjudicator's view of the complaint and thought the complaint should be upheld in Miss N's favour for much the same reasons.

Ikano didn't agree, 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 points out that there is an estimated returns document – which is only one page long. This sets out that Miss N could expect to receive between £55.98 and £111.97 in benefit annually. Her credit agreement sets out that her monthly payments was £79.44 – so Ikano felt it would have been clear to her that the system would not be self-funding.

I can see the estimated benefits were made clear on the estimated returns page – but no where does it mention the cost of the system on this document. So, Miss N would have had

to look at another document (her credit agreement) to figure out that the benefits would not be sufficient to cover the costs of the loan. I can also see Miss N was given a significant number of documents during the sale and, not one single document compares the cost with her benefit in real financial terms. Her validation sheet for example, does set out her cost but her annual benefit is set out as a SAP figure.

Given her lack of experience in how solar panels worked, I don't think it's fair to expect Miss N to navigate her way through such a significant number of documents, facts and figures. Instead, I think Miss N was entitled to rely on what she was being told by the installer and she says she was told the system would be self-funding.

The estimated returns page sets out Miss N is only expected to receive benefit in the form of reduction in her energy bills. This is because the Feed in Tariff (FIT) scheme had already closed to new applicants before Miss N's sale and the new Smart Export Guarantee (SEG), had not yet started. Miss N has since discovered she isn't able to receive SEG payments.

Miss N has provided copies of text messages she sent to the sales representative of the installer from before and immediately after the installation of the system asking for further information and help in applying for export payments for her unused energy. She sent several chasers to the representatives asking for information and support – but these went unanswered. The nature of her text messages indicate that she believed she'd receive an income from the system. Had the representative made it clear she wouldn't be entitled to these payments, or had it not been discussed, I would have expected him to have replied to her to clarify she'd only receive benefit in the form of reduction in her bills.

Miss N also sent an email to the installer directly explaining she'd been assured she would receive export payments and asked it to help her obtain the certificates needed to apply for them. I can see Miss N also emailed her energy supplier to ask for help in applying for such payments. These were all sent shortly after the installation of the system so are contemporaneous evidence.

Overall based on Miss N's consistent testimony, and the evidence she's submitted, I'm not satisfied that the estimated benefit page and credit agreement accurately reflects the full extent of the discussions she had with the sales representative in this case.

I think it's clear that Miss N believed she would receive income of some kind on top of the reduction in her bills and bought the system on that basis. She also spent a considerable amount of time and effort trying to sign up for it. I don't believe Miss N would have behaved in this way if had she been correctly told that she wouldn't be receiving any income other than savings on her bills (as set out by the estimated returns page). I think given the lack of responses from the installer's representative, that it's more likely, he hadn't made it clear she'd only receive benefit in the form of reductions in her energy bills.

I think this adds significant weight to the assertion that the documents submitted by Ikano, do not fully reflect the nature of the discussions Miss N had with this representative. I think Miss N's testimony is reliable and find her evidence overall more persuasive. And as explained above, she has repeatedly said she was assured the system would be self-funding due to the reduction in her energy bills and payments she was to receive for the unused energy the system produced.

So, 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 N 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 Ikano didn't treat Miss N fairly and she 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 Miss N

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Miss N's complaint for Ikano to put things right by recalculating the original loan based on the known and assumed savings and income to Miss N from the solar panels over the 10 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 the event the calculation shows that Miss N is paying (or has paid) more than she should have Ikano needs to reimburse Miss N accordingly. Should the calculation show that the misrepresentation has not caused a financial loss, then the calculation should be shared with Miss N by way of explanation.

If the calculation shows there is a loss, then where the loan is ongoing, I require Ikano to restructure Miss N's loan. It should recalculate the loan to put Miss N in a position where the solar panel system is cost neutral over the 10-year loan term.

Normally, by recalculating the loan this way, Miss N's monthly repayments would reduce, meaning that she would've paid more each month than she 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 FIT scheme or SEG payments. But as explained above, Miss N has not received any payments from either of these. So, in these circumstances, I don't think it's fair that any payments are included in the recalculation.

So, I think the fairest resolution would be to let Miss N 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 N and she continues to make her current monthly payment resulting in her loan finishing early, or
- d) the overpayments are returned to Miss N and she pays a new monthly payment until the end of the loan term.

If Miss N accepts my decision, she should indicate on the acceptance form which option she wishes to accept

If Miss N has settled the loan, Ikano should pay Miss N the difference between what she paid in total and what the loan should have been under the restructure above, with 8% interest.

If Miss N has settled the loan by refinancing, Miss N should supply evidence of the refinance to Ikano, and Ikano should:

1. Refund the extra Miss N paid each month with the Ikano loan.
2. Add simple interest from the date of each payment until Miss N receives her refund.
3. Refund the extra Miss N paid with the refinanced loan.
4. Add simple interest from the date of each payment until Miss N receives her refund.
5. Pay Miss N the difference between the amount now owed and the amount she would've owed if the system had been self-funding

I'm satisfied that there was sufficient information available at the time that Miss N first contacted Ikano that means the claim should have been upheld. I can also see that Ikano has initially declined the claim, then made an offer and then withdrew the offer, all based on the same documentation. I can see Miss N's complaint was initially raised in January 2020 and she's suffered significant inconvenience throughout. I direct that Ikano should pay £300 compensation for the trouble and upset caused.

My final decision

For the reasons I've explained, I'm upholding Miss N'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 Miss N to accept or reject my decision before 27 December 2022.

Asma Begum
Ombudsman