

## Complaint

Mrs D has complained that Omni Capital Retail Finance Limited (“Omni”) rejected her claim against it under Section 75 of the Consumer Credit Act 1974.

## Background

Mrs D bought solar panels for her home in 2017. The purchase was funded by a loan from Omni, and that business is therefore liable for any misrepresentation or breach of contract by the supplier under the relevant legislation. In this case, that relates to the supplier misleading Mrs D into believing that the panels would be self-funding, which they weren't.

Mrs D's complaint was considered by one of our adjudicators. She thought that the benefits of the panels were mis-represented to Mrs D, and that fair redress would be for the loan to be restructured to make the panels cost no more than the benefit they would provide over the loan term which was 8 years. This restructure should be based on evidence of the actual performance of the panels, and a number of assumptions on future performance.

Omni didn't respond 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.

Omni 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 Mrs D 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 Omni didn't treat Mrs D fairly and she lost out because of what Omni did wrong. And this means that it should put things right.

Fair compensation – what Omni needs to do to put things right for Mrs D

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mrs D's complaint for Omni to put things right by recalculating the original loan based on the known and assumed savings and income to Mrs D from the solar panels over a 8 year period 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 Mrs D is paying (or has paid) more than she should have, then Omni needs to reimburse her accordingly. Should the calculation show that the

misrepresentation has not caused a financial loss, then the calculation should be shared with Mrs D by way of explanation.

If the calculation shows there is a loss, then where the loan is ongoing, I require Omni to restructure Mrs D's loan. It should recalculate the loan to put Mrs D in a position where the solar panel system is cost neutral over an 8-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 Mrs D's solar panels were not registered for the FIT scheme and she has not received any payments from this scheme. So, in these circumstances, I don't think it's fair that any FIT payments are included in the recalculation.

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

If Mrs D accepts my decision, she should indicate on the acceptance form which option she wishes to accept.

Our investigator has requested a meter reading and utility bills from Mrs D, but these haven't been sent in. As explained by our investigator, Mrs D should send in any information she has retained to help Omni work out what (if any) redress is owed to Mrs D. And I see no reasons why, at least, her most recent bills and a meter reading cannot be sent in.

So Mrs D should provide her utility bills and a meter reading to enable Omni to work out how much (if any), redress is due to her. And as explained above, should the evidence and calculation show that the misrepresentation has not caused a financial loss, then the calculation should be shared with Mrs D by way of explanation.

If Mrs D has settled the loan, Omni should pay her the difference between what she paid in total and what the loan should have been under the restructure above, with 8% interest.

If Mrs D has settled the loan by refinancing, she should supply evidence of the refinance to Omni, and Omni should:

- 1. Refund the extra Mrs D paid each month with the Omni loan.
- 2. Add simple interest from the date of each payment until Mrs D receives her refund.
- 3. Refund the extra Mrs D paid with the refinanced loan.
- 4. Add simple interest from the date of each payment until Mrs D receives her refund.

5. Pay Mrs D 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 Mrs D first contacted Omni that means the claim should have been upheld. I direct that Omni should pay £100 compensation for the trouble and upset caused.

### **My final decision**

For the reasons I've explained, I'm upholding Mrs D's complaint. Omni Capital Retail Finance 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 Mrs D to accept or reject my decision before 2 June 2023.

Asma Begum  
**Ombudsman**