DRN-3982777

The complaint

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

What happened

Mr S 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 misrepresentations and/or breach of contract of the supplier under the relevant legislation. In this case, that relates to the supplier 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 investigators. They thought that the benefits of the panels were mis-represented to Mr S, 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 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 for several reasons, so the case was passed to an ombudsman.

What I've decided – and why

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.

Having carefully considered everything provided, for broadly the same reasons as those explained by the investigator, I uphold this case. I'll explain why.

Mr S says he was led to believe the financial benefits received from the system would cover the cost of the loan leaving him with profit, that the system would be immediately self-funding and that he would no longer have any electricity bills. His testimony has been clear and consistent throughout. Mr S raised concerns directly with the supplier as well as his utility provider soon after the installation independently – indicating he did genuinely believe the system would be self-funding. I find his direct testimony credible.

Ikano says that the documentation from the time of sale makes it clear that the system wouldn't be self-funding and these documents would have been shown to him during the sale and be available on the supplier's portal for him to review at his pleasure after the meeting.

The first-year benefit is shown as £526.68.

The credit agreement shows Mr S's monthly payment was £143.65, and the total cost is £17,237.40, while the cash price of the system is £12,000. The credit agreement also shows his loan term is 120 months (i.e. 10 years), with an additional 12 month deferral period.

Based on the sales documents, Ikano says its clear that there is a shortfall between the cost and the benefit – so Ikano feels it would have been clear to Mr S that the system would not be self-funding. 12 payments of £143 is significantly more than the first-year benefit of £526 for example. Ikano adds that the 30 year-repayment table also shows it would be a significant number of years before Mr S would recoup the initial cost of the system.

However, Mr S has also submitted his own evidence which I've also reviewed. Mr S sent the salesperson working for the supplier a message on a popular messaging app asking for a copy of the 30-year table – and asking why the credit agreement shows his monthly payments are £143 rather than the £104 a month he was verbally told the system would cost.

The salesperson replied not answering Mr S's questions regarding the discrepancy in the cost with a screenshot of the following.

Ikano has since explained that the £104 monthly cost possibly referred to during the sales meeting is likely to have been the monthly cost set out in the credit agreement of approximately £143, less the monthly benefit provided by the system (i.e. 526/12=£43). And the £104 is likely to have been what Mr S would have to contribute to the costs of the system.

But this explanation was not provided to Mr S at the time – the response from the salesperson made no attempt to explain to Mr S what the system would actually cost him. Additionally, while Ikano says that Mr S could have reviewed the sales quotation document with his annual benefit of £526 and the 30 -year lifetime benefit table on the supplier's online portal, it doesn't look like Mr S was advised of this at the time he messaged the salesperson. Mr S says he was not shown these figures in detail during the meeting, it was not left with him to review – which I find persuasive given he repeatedly asked for them during his messages with the salesperson.

Ikano says that Mr S was emailed the screenshots of the repayment table shortly after the sales meeting – but I can see there are several screenshots of different sections of the table. Additionally, Mr S said he called the salesperson concerned about the numbers he had been verbally told but was assured again that the benefit he would receive would cover the cost of the system – I have no reason to doubt what he has said.

I would add that the net monthly contribution of £90.61 sent via the messaging app has no context, doesn't explain that this is what Mr S would have to contribute, and is completely different to the figures on the credit agreement (£143) as well as what Mr S was advised of verbally (£104).

As explained above, Mr S raised concerns over the verbal representations made to him during the sale shortly after receiving his first bill from his provider – as he was led to believe the system would cover all his electricity costs and that he would pay no bill. This was passed to his supplier – and as part of the response from the supplier – it said the following.

> From your contract I can see that you paid £12,000 for the system with a predicted return of £39,045.80 so it is correct that your system performance will more than pay for the panels. Any additional profits can be deemed by you to offset against your electricity costs or view this as profit to your bank balance.

I think it's important to bear in mind that the supplier continued to assert the system would pay for itself, and repeatedly highlighted the point that the system would produce benefits of £39,045 during the lifetime of the system. It's clear that this is the number that was being emphasised and Mr S was led to focus on. This amounts to £1,301.52 annually, which is significantly more than the £526 set out in the sales quote.

Mr S is not well versed in solar panel generation and benefit figures, and he would have been reliant on what he was being told – and given the vast numbers of facts and figures he was being given, I think he would have needed help in navigating them to help him make an informed choice.

Like our investigator, I'm satisfied that there's sufficient evidence available in this case that the information the salesperson highlighted and emphasised during the sales meeting and after, do not make it clear the system wouldn't be self-funding, the way Ikano has now asserted. I'm persuaded that Mr S was told the system would be self-funding. And I think it's apparent the supplier promoted the figures that appear to support the assertion the system would provide sufficient benefits to cover the cost and did so to an extent that it was misleading. I'm also satisfied Mr S relied on these representations and bought the system on that basis.

In my view, the information given was at best confusing and Mr S cannot have been expected to navigate his way round these figures to ascertain the system wasn't self-funding when he was being verbally told by the suppliers (the experts) that it would be. I'm not satisfied the information was presented to Mr S in a clear fair or not misleading manner and I'm satisfied that Mr S lost out as a result of this.

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

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr S's complaint for Ikano 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 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 S 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 S by way of explanation.

If the calculation shows there is a loss, then where the loan is ongoing, I require Ikano 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 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.

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

1. Refund the extra Mr S paid each month with the Ikano 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 Ikano that means the claim should have been upheld. I direct that Ikano should pay £100 compensation for the trouble and upset caused.

Mr S should submit a meter reading and any available bills to help Ikano complete its calculation of loss.

My final decision

For the reasons I've explained, I'm upholding Mr S'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 S to accept or reject my decision before 15 December 2023.

Asma Begum
Ombudsman