

The complaint

Mr A complains that Ikano Bank AB (publ) ("Ikano") has not fairly compensated him in relation to a claim he made. Mr A purchased a solar panel system including battery, boiler optimiser and heating controls which was sold to him by a supplier using a fixed sum loan agreement from Ikano.

Mr A's complaint only relates to the solar panels and battery - he has expressed no dissatisfaction in relation to the boiler optimiser and heating controls. So, in this decision where I refer to "the system" I mean the solar panels and battery only.

What happened

In September 2020, Mr A agreed to purchase the system from the supplier. He says he did so on the understanding that the system would pay for itself.

After the system was installed, Mr A complained to the supplier that the solar panels were not working properly. He says the battery was also charging from the grid (for which he was charged by his electricity supplier), then discharging back to the grid with no benefit to him (he was not paid for exporting that electricity).

It was not until February 2022 that the supplier repaired the system, and it began to function correctly. Mr A asked the supplier for compensation but didn't receive any. Eventually he complained about this to the Financial Ombudsman Service.

We have the power to consider complaints about financial businesses. In this case, Mr A paid for the system using a fixed sum loan agreement from Ikano. This means we can look at the complaint against Ikano, because sections 75 and 56 of the Consumer Credit Act 1974 ("the Act") mean Ikano has joint liability with the supplier for any misrepresentation or breach of contract by the supplier when providing the system to Mr A.

Ikano responded to the claim to say that the problems with the system had been repaired so it was now working properly. And the supplier had installed bird barriers for free at the same time - which the supplier otherwise would've charged £600 for. The supplier suggested that the value of this exceeded any losses Mr A made from the system not working and should be seen as fully compensating any losses. Despite this, Ikano offered £263.04 compensation which it says was for the lost benefits while the system wasn't working properly.

Our investigator looked into what had happened. She recommended the complaint be upheld. She thought that the system had been sold as paying for itself and that it wasn't doing so and that Ikano should recalculate the loan to ensure Mr A pays no more than the expected benefit he will receive over the loan term. It would have been for Ikano to calculate any loss – and if the calculation showed no loss then no payment would be made to Mr A.

Our investigator also said that Ikano should separately pay £100 compensation for the trouble and upset caused. Our investigator felt this adequately compensated Mr A for all the issues he had raised.

Ikano rejected this. It said there was no misrepresentation, so the recommended redress was not appropriate. The sales contract only showed benefits from self-consumption (electricity being used as it was generated by the solar panels and from this being stored in the battery and used later - thus reducing the amount of electricity Mr A purchased from his electricity supplier) and not from grid trading.

Since the system was repaired and working properly, Ikano said the appropriate redress would be compensation for the loss of savings in the period Mr A's system was faulty. Ikano said its earlier offer was incorrect. Ikano calculated that the system was faulty for 468 days. And that based on the estimated benefits in the sales documents, those lost benefits amounted to £857.79. It also offered £100 compensation for the trouble and upset caused.

Since the complaint couldn't be resolved by our investigator, I've been asked to make a decision. I issued a provisional decision saying that while I was upholding the complaint, the latest offer by Ikano appeared to be reasonable, so I was only planning to direct it to pay £857.79 for financial losses and £100 in recognition of the distress and inconvenience caused.

Ikano acknowledged receipt of my provisional decision but did not provide anything further by the deadline I gave.

Mr A provided some screenshots to illustrate how the system was working before and after the system was repaired in February 2022, alongside some further comments.

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.

I have the power to look at a complaint about how Ikano responded to a claim under Section 75 of the Act, which allows Mr A to make a claim to Ikano about misrepresentation or breach of contract by the supplier.

In responding to the complaint, I'd expect Ikano to take into account its obligations under Section 75. If I think there was a misrepresentation or breach of contract by the supplier, I will consider whether Ikano has provided appropriate compensation for this. If it had not, then I would uphold the complaint and recommend that it pay appropriate compensation.

However, if I think there was no misrepresentation or breach of contract, or that there was and Ikano has offered appropriate compensation, I will not expect Ikano to do anything further (other than pay the compensation if it hadn't already done so).

I have considered all the information provided, including Mr A's latest comments and the screenshots provided. But I am not persuaded to alter my findings.

So, in line with my provisional decision, I think there was a breach of contract, but no misrepresentation. And that Ikano's latest offer provides adequate compensation. So, I'm upholding this complaint and telling Ikano to pay Mr A £857.79 for financial losses and £100 compensation for distress and inconvenience. Below I explain my reasons.

Misrepresentation

A misrepresentation is a statement of fact made by one party to a contract to the other party that isn't true and has the result that the person to whom it's made enters into the contract when they otherwise wouldn't have done so.

In this case there is an alleged misrepresentation in that Mr A says he was told the system would "pay for itself", but he doesn't think that was true.

Thinking about this, I've taken into account what Mr A has said, as well as the point-of-sale documents. This includes the sales contract and credit agreement provided by Mr A and an estimated benefits table showing the estimated annual benefits over 25 years, which is the expected lifetime of the system, provided by Ikano.

In light of this evidence, I think that it is likely the system was sold as paying for itself over its 25-year expected lifetime. I say this because the sales contract shows the benefits of the system over 25 years to be £40,721.18 in total, with a net benefit from the solar panels and battery of £27,106.01 after the cost of the system and expected maintenance.

I don't think the system was sold as being self-funding within a shorter timeframe. There is nothing in the sales contract to suggest that was the case. Mr A says he wasn't shown the estimated benefits table. And in any case, that table does not make clear when the system could be expected to pay for itself (other than over its lifetime). I'm also mindful that Mr A's complaint to the supplier only related to the fact the system was faulty - and sought compensation in relation to that.

However, I do not think this was a misrepresentation. The savings over time are likely to increase due to electricity price inflation. This is shown in the estimated benefits table, with the first-year benefit shown as £669.01 and the annual benefit in the 25th year having increased to £3,197.82.

While these are estimates and it is unlikely that the savings will be exactly as shown, I think the assumption of annual electricity inflation used, which I calculate is about 6.7%, is reasonable given historic electricity price inflation at the time of sale. I would not say this was a misrepresentation just because those savings may not be realised. This is because the actual savings depend on how Mr A uses electricity in his home (which is beyond the supplier's control) and how electricity prices change over the years (which can't be predicted accurately).

But I do think it is likely that the system will pay for itself over its lifetime - in that the savings Mr A makes as a result of having the system will exceed what he pays for it.

In summary, I am not persuaded there was a misrepresentation.

Breach of contract

I think it is clear there was a breach of contract - in that the system was not installed with due care and skill and as a result was not working properly. The supplier accepted this and carried out repairs so the system is now fully functioning - albeit those repairs were completed sometime after the initial installation.

Bearing in mind that Mr A was unable to enjoy the benefits of the system during the time it wasn't working properly, I think it would be appropriate for him to be compensated for that lost benefit.

Ikano has made an offer of settlement which appears to fairly compensate that loss. It has assumed that Mr A was receiving no benefit from the system at all. The compensation is based on the total estimated benefits of the system that were calculated at the time of sale and I don't think those estimates were unreasonable. It also covers the whole period the system was faulty. I think that is a fair and reasonable resolution.

In summary, I think there was a breach of contract which caused Mr A financial loss. But Ikano's offer of £857.79 fairly compensates that loss.

Further loss claimed

Mr A says he suffered a further loss because the battery was charging from the grid, for which his electricity supplier charged him, and discharging back to the grid without him receiving payment for this.

However, the screenshots Mr A has recently provided show that no electricity was being discharged by the system to the grid in the months prior to the repair in February 2022. So, I do not think there was any additional loss that needs to be compensated.

Distress and inconvenience

When upholding a complaint, I can award compensation for distress and inconvenience caused by Ikano. This does not include distress and inconvenience caused by the supplier.

So, I can't direct Ikano to compensate Mr A for the inconvenience of pursuing the matter with the supplier - which clearly took a lot of time and effort. I appreciate Mr A may be disappointed by this – but my powers are limited in this regard.

I have taken into account Mr A's additional comments about this, but I am still of the opinion that Ikano's offer of £100 compensation for the trouble and upset it caused is fair and reasonable.

My final decision

I have decided to uphold this complaint. To put things right Ikano Bank AB (publ) should pay Mr A £857.79 to compensate his financial loss and an additional £100.00 to recognise the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 December 2023.

Phillip Lai-Fang
Ombudsman