

The complaint

Mr D and Mrs S complain about Ikano Bank AB (publ)'s response to a claim he made under sections 75 and 140 of the Consumer Credit Act 1974

What happened

In 2017, Mr D and Mrs S purchased a solar panel system ("the system") using a loan from Ikano, which was repayable over 120 months with a monthly repayment of £100.57. Only Mrs S signed the loan agreement.

In 2021, a claims management company ("CMC") made a claim to Ikano on Mr D and Mrs S's behalf. This alleged that the supplier of the system had misrepresented it as being self-funding, in that the savings and income from the system would cover the loan repayments, so Mr D and Mrs S would not be worse off each month.

The CMC also said that Mrs S's relationship with Ikano was unfair on her because of the misrepresentation and because:

- No suitable creditworthiness assessment was carried out.
- The required pre-contract information was not provided, including notice of the cancellation period.
- Mr D and Mrs S were pressured into the purchase because of the misrepresentations and because the credit agreement was not explained, so Mr D and Mrs S did not fully understand the costs.
- Commission was paid in relation to the loan, but Mr D and Mrs S were not told about this.

Ikano rejected the claim. It did not accept there was any misrepresentation nor that its relationship with Mrs S was unfair on her. Ikano said that no commission was paid in relation to the loan.

Unhappy with this, the CMC made a complaint on Mr D and Mrs S's behalf about Ikano's response. Since Ikano did not change its position, Mr D and Mrs S asked the Financial Ombudsman Service to look at the complaint.

Our investigator recommended the complaint be upheld but Ikano disagreed. It reiterated that the sales documents were clear in what benefits would be received and that these were much less than the loan repayments.

Because the complaint has not been resolved, I've been asked to make a decision. I issued a provisional decision explaining that I was not planning to uphold the complaint. Neither Ikano nor Mr D and Mrs S have provided anything further for me to consider when making my final decision. So, my final decision is in line with my provisional one.

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.

Section 75 allows a debtor to claim against a creditor for any misrepresentation (an untrue statement of fact that induces a person to enter the contract) or breach of contract by the supplier of goods or services paid for using credit – in this case a point-of-sale loan.

Section 140 of the Consumer Credit Act allows the courts to consider whether the relationship between a creditor and debtor is unfair on the debtor.

Having taken everything relevant into account, I've provisionally decided not to uphold this complaint.

The sales documents include "system performance information" which clearly shows the expected benefits of the system. The first-year benefit from savings and income was estimated as £495.45. This is clearly much less than the annual loan repayments of £1,206.84, which is shown as £100.57 per month on the loan agreement.

The sales documents were not all signed on the same day. The quote was signed on 14 December 2016, the system performance information on 20 December 2016 and the loan agreement on 15 January 2017.

On signing the quote Mrs S knew the purchase price of the system was £7,750.00. She indicated on the quote that she wanted to pay using finance. But it is unclear what information was provided about the loan at that time.

Six days later Mr D and Mrs S signed the system performance information at another meeting, so they knew that against the purchase price of £7,750.00 they could expect estimated benefits of £495.45 in the first year. Mrs S remembers that meeting and the estimated benefits being written down, although she said they were described as being "rough estimates." Based on a benefit of £495.45 per year it would take around 16 years for the benefits to exceed the purchase price (which doesn't include any interest or charges related to the loan).

A few weeks later Mr D and Mrs S signed the loan agreement, showing the monthly repayments and total amount payable over ten years of £12,067.05. So, at that time they knew the estimated first-year benefits were £495.45, and that they would be repaying £12,067.05 over ten years at £100.57 per month, or £1,206.84 per year. The installation took place on 8 February 2017. So, they had plenty of time to review the documents and understand the cost and benefits of the system.

Bearing in mind the information on the sales documents – I think it is unlikely that the supplier would've told Mr D and Mrs S that the system was self-funding in the way that has been alleged. That the sales documents were signed at various times does not change my opinion on this. Mr D and Mrs S had all the information available to them about the costs and benefits of the system before they signed the loan agreement. If they had been unhappy with any of that information they could've withdrawn from the purchase within the relevant cooling off periods and before the installation took place.

I'm also mindful that Mr D and Mrs S would've known within a few months of the installation that the benefits were not covering the monthly loan repayments. So, if this did not match what they had been told at the time of sale, I'd have expected them to take action on this – such as complaining about it – much sooner than they did.

So overall I do not think the alleged misrepresentation took place.

I've also thought about whether the relationship between Ikano and Mrs S was unfair on her. But I'm not persuaded a court would conclude that it was.

I don't think there was a misrepresentation. And I think that Mrs S was provided with the required information about the credit agreement, including the pre-contract information and cancellation notice. Ikano has confirmed that no commission was paid in relation to the credit agreement and provided information about the credit checks it carried out. These appear to be appropriate, and there's no suggestion that the lending was irresponsible or unaffordable for Mrs S.

In summary, I don't think there was a misrepresentation by the supplier. And I don't think a court would conclude that the relationship between Ikano and Mrs S was unfair on her. So, I do not think that Ikano did anything wrong when it rejected Mr D and Mrs S's complaint.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs S to accept or reject my decision before 7 March 2024.

Phillip Lai-Fang
Ombudsman