

The complaint

Mr M has complained about the way Creation Consumer Finance Ltd ('Creation') dealt with a claim he'd raised in relation to goods and services financed by a fixed sum loan agreement.

What happened

The circumstances of the complaint are well known, so I'm not going to go over everything again in detail. But to summarise, Mr M bought a solar panel system ('the system') from a supplier I'll call "P" in 2022. The system was to be paid back over 36 months with repayments of around £260.70 per month using a 0% interest loan agreement with Creation.

The system included but was not limited to solar panels and a battery. The battery was not installed.

I understand Mr M contacted P about system concerns in 2022 and he also contacted Creation in 2023 to complain about the system. Mr M believes the loan agreement should be voided as the full system was never installed. Both P and Creation had made offers to redress the situation but neither were acceptable to Mr M. Creation did not think the agreement should be voided. And so, Mr M referred his complaint to the Financial Ombudsman.

Our investigator thought the existing offers were broadly fair, but Mr M didn't agree. Our investigator suggested that Creation should make a fair redress by:

- Reducing the loan agreement by an accurate cost for the battery of £2,574.
- Paying a sum of £356 for Mr M's estimated loss of potential savings (being an amount of half the expected annual saving had the battery been installed).
- Refunding £500 to Mr M for damages incurred to the property during the installation.
- Paying an amount of £1,500 to reflect and redress the trouble and upset that this has caused Mr M.

Creation accepted the investigator's suggested redress but Mr M did not. Mr M remains minded that the agreement should be voided as the installation was never completed.

As things weren't resolved, the complaint has been passed to me to decide.

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 want to acknowledge that whilst I've summarised the events of the complaint, I've reviewed everything on file. If I don't comment on something, it's not because I haven't thought about it. I'm focussing on what I consider are the key issues.

Mr M paid for the system using a fixed sum loan agreement. This is a regulated consumer credit agreement, and our service is able to consider complaints relating to these sorts of agreements.

Section 75 of the Consumer Credit Act 1974 makes Creation responsible for a breach of contract or misrepresentation by P under certain conditions. I think the necessary relationships between the parties exists and the claim is within the relevant financial limits.

It doesn't seem to be in dispute that there was a breach of contract as the full installation was not completed. And Creation has agreed their responsibility for that breach under section 75. So, I think Creation needs to do something to put things right. It is possible but not certain that a court might make an award that the loan agreement should be voided. It is possible that we could make that award. In thinking about what redress to award, I must have regard for what is fair and reasonable based on all of the specific circumstances of this case.

In this case, had the loan been voided, both sides would have to be returned to the position as if the contract had not happened. That would have meant that Mr M's loan agreement was voided and Creation would have had the right to reclaim their property ('the system') from Mr M's property. However, in this case, Mr M has sold the property. So, that option is not now available to Creation. Because of this I think it would not be fair to find that Creation should void the loan agreement.

So, I have thought about what redress would be fair in this case. The system installed was a working system, but not as efficient as had the battery been fitted. So, it seems fair to remove the cost of what was not fitted ('the battery') from the cost of the system.

And the system without the battery would have been less efficient than one with it would have been. It is fair that I make some award in respect of that. We can't realistically determine how much the lack of a battery would have reduced the efficiency of the system. But the investigator thought it was unlikely that the efficiency would have been more than half the expected annual saving had the battery been installed. That doesn't seem to be an unreasonable estimate. Creation has agreed to this and Mr M has not made comment on it. So, I have no reason to diverge from this as a reasonable part of the redress.

I also thought that it was not unreasonable for Mr M to be made an award to reflect the trouble he has faced during this process. P had originally made an offer of £1,500, which is at the higher end of any award that we might make for this. This seems like a fair-minded award for P to have made. Creation has agreed to this part of the award, so I have no reason to make a different award.

P had agreed to make repair for some damage that had been made to the property during the installation of the system. It seems that agreement about the repairs could not be achieved. So, P offered the cash amount of £500 for Mr M to make the repairs himself. We can't realistically determine how much the repairs would have cost. But it was P's assessment that £500 ought to cover the repairs if Mr M got someone in to make that repair. And Mr M has not objected specifically to this amount as being unreasonable. And Creation has agreed to this when put to them by the investigator. In view of all of the above, I have no reason not to make this award as a part of this decision.

Putting things right

To put things right Creation Consumer Finance Ltd should:

- Reduce the loan agreement by an amount of £2,574 as an accurate cost for the battery. I understand the loan agreement may already have been reduced by an amount of £2,202.36. If that is the case, the difference between the two amounts should be removed from the loan agreement.
- Pay a sum of £356 for Mr M's estimated loss of potential savings in the time he had the system.
- A refund of £500 for damages incurred to the property during the installation, if not already paid.
- An amount of £1,500 to reflect and redress the trouble and upset that all of this has caused Mr M.

My final decision

My decision is that I'm upholding this complaint and direct Creation Consumer Finance Ltd to put things right by making the redress payment as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 February 2025.

Douglas Sayers
Ombudsman