

The complaint

Mr S has complained about Ikano Bank AB (publ)'s response to a claim he made under Section 75 ('s.75') of the Consumer Credit Act 1974 (the 'CCA') and in relation to allegations of an unfair relationship taking in to account Section 140A ('s.140A') of the CCA.

What happened

In March 2020, Mr S bought a solar panel system ('the system') from a company I'll call "E" using a 10-year fixed sum loan from Ikano.

In August 2021 Mr S complained to Ikano, he said that he was told by E that the electricity savings he would make would cover the cost of the loan repayments, however that hasn't happened, and he's suffered a financial loss. He also believed that what happened at the time of the sale created an unfair relationship between himself and Ikano.

Ikano responded to the complaint in its final response: it didn't agree that there had been any misrepresentation by E and so didn't uphold Mr S's complaint.

Unhappy with Ikano's response, Mr S referred his complaint to our service.

An investigator considered Mr S's complaint, and she ultimately thought that E had misrepresented the system to Mr S, which had induced him into agreeing to the installation. So she thought the complaint should be upheld.

Mr S accepted the investigator's view. Ikano didn't, highlighting that the paperwork from the time of the sale would have made it clear to Mr S that the system would not pay for itself. It also said that in other cases this service had concluded that the document in question provided clear information to the customer. So, the case was progressed to the next stage of our process, an Ombudsman's decision.

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.

Having done so, I'm going to uphold it, and I'll explain why.

Mr S has said that he was told by S's representative that the cost of the system would be fully paid for by the savings he would make on his electricity charges. I haven't seen any evidence he had any prior interest in purchasing solar panels or substantial motivation beyond a financial one.

I've looked at the documents provided by Mr S to see if there was anything contained within them that made it clear that the solar panel system wouldn't be self-funding.

I have a copy of the loan agreement, which shows that both the total amount payable, and the monthly cost of the loan were clear to Mr S. However, there is no mention on the agreement of the potential benefits of the panels.

I also have the benefit of the contract between Mr S and E, which forms the crux of the dispute in this case. It is a handwritten and somewhat untidy document, with a few mistakes on the form, such as in terms of which boxes ought to have been ticked, and which not.

It is only a two-page form, and at the top of page two there is a heading which reads, "*Estimated Year 1 Solar Returns*". However, directly under that heading only the technical information about how much power the system is expected to generate is included, there is nothing financial. There then follows a series of different headings, of equal size and prominence, until the reader reaches one called, "*Totals (Pick One)*". There are three options for expressing the totals, all of which were initially crossed, then one overwritten with a large tick. In that section, the amount of £376.54 is written.

Ikano not unreasonably says that it ought therefore to have been clear to Mr S that his total annual financial return from the system would be only £376.54, which is significantly less than even the cost of the system without interest – an amount that is featured further down the same page.

So, the documentary evidence is not clear cut, and I have carefully considered Ikano's valid observations. It is at this point that I turn to its submissions that this service has previously concluded that the very same document did provide clear information in another case. Firstly, and fundamentally, it is important to state that it is my statutory role to conclude what I think is a fair and reasonable outcome in all the circumstances of individual complaints. No two cases are identical, even where there may be elements of the evidence that are shared. So it is entirely possible, and indeed to be expected, that the same document can lead to different conclusions in different contexts.

Returning to the document in this context, I would comment that the calculations summarised on this contract are not clear and easy to follow. And indeed I have to question some of the figures' validity. For example, it would appear that E estimated that the vast majority of the financial returns would come from electricity savings, but also that it estimated that Mr S's household would use 100% of the power the system would generate. That would be unusual and I would expect to see some explanation of why that could be expected to validate that figure's use. The larger the proportion of power generated that can be used by the household, the higher the financial returns. So I have concerns about the figures included in the contract, and in the round have to question its value as a source of clear information to Mr S.

Ultimately, in this instance, when I take Mr S's testimony into account, I am persuaded that there was a misrepresentation here. We specifically challenged Mr S about the contract as described above. He confirmed he still had a copy of it, and that he had looked at it afresh. He set out how the sales representative had given him the impression that the calculations and figures in question were breaking down different cost elements of the system. Not setting out annual savings. He said had he realised that, he would never have agreed to the installation of the panels. Given everything I've said about the clarity and cogency of the contract, I find this plausible.

Given the quality of the paperwork available, I think Mr S would have looked to E's representative to help him understand what the panels would bring in and how much he would benefit from the system. As mentioned, I've seen no evidence of any motivation other than a financial one on Mr S's part to agree to the panel installation. So on balance, I think it

is more likely than not that Mr S would not have agreed to the installation of the panels if E had made it clear that it would leave him out of pocket.

For the solar panels to pay for themselves, they would need to produce income of at least £1,250 per year. Based on my own calculations, it would appear that Mr S's system has not generated as much power as expected, but notwithstanding, even if it were, there can be little doubt that it would not be, nor ever have been, able to provide an income of £1,250 per year. I think E's representative must reasonably have been aware that Mr S's system would not have produced benefits at this level. Whilst there are elements of the calculations that had to be estimated, the amount of sunlight as an example, I think E's representative would have known that Mr S's system would not produce enough benefits to cover the overall cost of the system. There is ample evidence of that from the energy bills provided by Mr S, which show a significant reduction in the amount of electricity purchased by his household after installation – but nothing like the magnitude estimated by E.

Considering Mr S's testimony alongside the available documentation he was shown at the time of the sale; I think it more likely than not that E gave Mr S a false and misleading impression of the self-funding nature of the solar panel system.

I consider E's misleading presentation went to an important aspect of the transaction for the system, namely the benefits and savings which Mr S was expected to receive by agreeing to the installation of the system. I consider that E's assurances in this regard likely amounted to a contractual promise that the solar panel system would have the capacity to fund the loan repayments. But, even if they did not have that effect, they nonetheless represented the basis upon which Mr S went into the transaction. Either way, I think E's assurances were seriously misleading and false, undermining the purpose of the transaction from Mr S's point of view.

Putting things right

In all the circumstances I consider that fair compensation should aim to remedy the unfairness of Mr S and Ikano's relationship arising out of E's misleading and false assurances as to the self-funding nature of the solar panel system. Ikano should recalculate the original loan based on the known and assumed savings to Mr S from the solar panels over the ten-year term of the loan so he pays no more than that, and he keeps the solar panel system.

To do that, it's important to consider the benefit Mr S received by way of energy savings. Mr S will need to supply up to date details, where available, of electricity bills and current meter readings to Ikano.

In recalculating the loan this way, Mr S's monthly repayments will reduce, meaning that he would've paid more each month than he should've done resulting in an overpayment balance. As he has been effectively deprived of the amount of that monthly overpayment, Ikano must add 8% simple interest* from the date of each overpayment to the date of settlement.

Mr S must then decide how he would like his overpayments to be used, choosing from the following:

- 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.

Finally, I consider that Ikano's failure to fully deal with Mr S's complaint in a reasonable timeframe, with minimal communication, caused Mr S some degree of trouble and upset. In recognition of this, and in addition to what I have already set out above, Ikano should also pay Ms H and Mr S £100.

If Mr S is not able to provide all the details of his meter readings, electricity bills and/or FIT benefits, I am satisfied he has provided sufficient information in order for Ikano to complete the calculation I have directed it to follow in the circumstances using known and reasonably assumed benefits.

* If Ikano Bank Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I've explained, I uphold this complaint and Ikano Bank AB (publ) must put things right as 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 10 January 2025.

Siobhan McBride
Ombudsman