

## **The complaint and what happened**

Mrs P has complained about Shawbrook Bank Limited's response to a claim she 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.

I've included relevant sections of my provisional decision from November 2024, which form part of this final decision. In my provisional decision I set out the reasons why I was planning to uphold this complaint. In brief that was because I thought that Mrs P was induced into buying the solar panel system at the heart of this dispute by misrepresentations, which resulted in there being a loss to her and fundamentally an unfair relationship between her and Shawbrook.

I asked both parties to let me have any more information they wanted me to consider. Shawbrook accepted my provisional findings and Mrs P didn't respond.

## **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 upholding it, and I'll reiterate why, but first I've included here the relevant sections of my provisional decision:

### ***"What happened***

*In June 2017, Mrs P bought a solar panel system ('the system') from a company I'll call "S" using a 10-year fixed sum loan from Shawbrook. Concerned about the income from the system, and the amount of interest she was paying to Shawbrook, Mrs P paid off the agreement early in February 2021.*

*In March 2023 Mrs P complained to Shawbrook, she said that she was told by S that the 'feed in tariff' ('FIT') payments and electricity savings she would make would cover the cost of the loan repayments, however that hasn't happened, and she's suffered a financial loss. She also believed that what happened at the time of the sale created an unfair relationship between herself and Shawbrook.*

*Shawbrook responded to the complaint in its final response: it didn't agree that there had been any misrepresentation by S and so didn't uphold Mrs P's complaint.*

*Unhappy with Shawbrook's response, Mrs P referred her complaint to our service.*

*An investigator considered Mrs P's complaint, and she ultimately thought that the evidence available at that time was insufficient to lead her to think that S had misrepresented the system to Mrs P, and so she didn't think it should be upheld.*

*Shawbrook accepted the investigator's view. Mrs P didn't, and managed to locate some additional documentary evidence. As well as that, she has given us additional testimony about the sale and why she continues to believe her complaint should be upheld. So, the case was progressed to the next stage of our process, an Ombudsman's decision.*

### What I've provisionally 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 planning to uphold it, and I'll explain why. I'll also say that this case is, in my view, particularly finely balanced, with competing valid evidence which I have carefully weighed up.*

*Mrs P has said that she was told by S's representative that the cost of the system would be fully paid for by the FIT payments she would receive and the savings she would make on her electricity charges. While she says she was also happy to be able to do something potentially beneficial to the environment, she says she was 'cold called' by S, and I haven't seen any evidence she had any prior interest in purchasing solar panels or substantial motivation beyond a financial one.*

*I've looked at the documents provided by Mrs P 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 Mrs P. However, there is no mention on the agreement of the potential benefits of the panels.*

*Mrs P has kindly provided as much documentation as she can, including some which is from the time of sale and created by S, such as technical specifications about the system and also the contract between her and S. The technical document is just that – full of technical data about the electrical specifications of the system and contains no financial information. But the contract does deal to some extent with money, in the section I've included here:*

I WISH TO ORDER THE FOLLOWING RENEWABLE ENERGY SYSTEM(S)					
Solar PV System			Installation		
Panels	Size	System			
7	x 285	= 1.995 KW			
SAP	Output	1st Year FiT	Goods		
863	1772	£ 69.56			
		Guaranteed	Total		
Orientation	Pitch	Shading	6999		
5	33	0			

*I have, of course, noted the amount that has been "guaranteed" as the "1st year FIT". Whilst it isn't clearly set out as to what that amount actually is – cost? income? – I think it reasonable to assume that most people would likely think it is the income. The contract also sets out on the same page that the "total price including VAT" of the system is £6,999, which appears to be inaccurate in two respects. Firstly, the credit agreement sets out that the cash cost of the system is £5,999, not £6,999. It also sets out that Mrs P did not pay a deposit. So the difference between the contract price and that shown on the agreement is at present unexplained. However, in any event, with interest, the total price of the system to Mrs P was*

at least £7,717.20. So the contract did not provide an accurate and clear comparison for Mrs P between the costs to her and the system's likely income.

The contract makes no mention of savings on electricity costs, so I accept that the first year income as a whole from the system was likely to be higher than £69.56. That isn't really relevant to my considerations here. There are two key points about the contract. Firstly, it did not offer Mrs P a clear and accessible understanding of what she would be paying for the system versus what her financial gains would be. But, secondly, I think the low amount of £69.56 guaranteed as FIT income in year one ought to have flagged to Mrs P that there was probably a very significant gap between the cost and benefits and that the system was not going to pay for itself.

In a quest to gain as much evidence as possible, I have also found some archived content from S's website from the time of the sale. Although I have no evidence that Mrs P looked at this, or was directed to it by the sales representative, I also don't think it's entirely irrelevant when considering the likely content and tone of the information S would have given Mrs P – both verbally and in writing. But there is nothing I can find on the website from 2017 which presents solar panel systems as being self-funding.

So, the documentary evidence is mixed. Whilst I have seen no clear information given to Mrs P comparing the costs and benefits of the system, I acknowledge that the "guaranteed" FIT income on the contract does not wholeheartedly support her testimony. And nor does the archived website content I have found.

However, ultimately, in this instance, I am persuaded by Mrs P's testimony, which I find to be believable. And I will explain why.

Over the course of this service's investigation, Mrs P has repeatedly provided comparatively detailed testimony both in writing via a representative and latterly directly in a telephone call with the investigator. I have listened to the recording of that conversation. Everything she has told us either verbally or in writing has been consistent. She has set out that the meeting with S's salesperson went on a long time, and that he focused heavily on the fact that the prices were about to change the following week, so it was crucial that she didn't delay making a decision. The contract confirms that the presentation lasted for two hours.

She has set out several times that the salesperson showed her his own FIT statements from his solar panel at system at home to demonstrate how lucrative the system would be. She says she asked him to leave her a copy of that so she could think about whether to proceed and that he refused on the basis that it contained his own personal data. She has also said that she in fact signed a blank contract and that the details I've discussed above weren't provided prior to installation. I queried that, asking why she would do that rather than wait for a completed contract. She has said she felt quite pressured by the salesperson and that he kept underlining that if she didn't sign up there and then she would miss the best prices.

I was struck by Mrs P's recent conversation with the investigator, in which she expressed her real anger and disappointment about the sale and the salesperson, who she identifies as having acted in bad faith. Whilst I accept that what she says happened could be untrue, and her apparent feelings essentially fabricated, I find that highly unlikely. There was nothing about what Mrs P said that felt rehearsed, prepared, or polished. On balance, I find that she was more likely than not providing clear and genuine recollections of the two-hour sales meeting which lies at the heart of this complaint.

As an aside, Mrs P described to our investigator how she had realised after a couple of years that the system would be very far from self-funding and that she contacted S about it. She highlighted how it took that long due to the infrequency of FIT payments and waiting to see the impact on her electricity bills. She says that the salesperson no longer worked for S, and the number she had didn't work. She also says she was told that the system wasn't generating much income because she hadn't paid to have a battery installed.

*Given the credit agreement and other documents don't contain information about the benefits versus the cost, Mrs P would have looked to S's representative to help her understand what the panels would bring in and how much she would benefit from the system. As mentioned, I've seen no evidence of any motivation other than a financial one on Mrs P's part to agree to the panel installation. Indeed, I'm of the opinion that money would be a key reason to purchase the system and her savings on her electricity bills and income from the FIT scheme would have been a central part of the conversation with the salespeople. That is particularly pertinent given that Mrs P has mentioned that she was a single mother at the time and that saving money was important to her. On balance, I think it is more likely than not that Mrs P would not have agreed to the installation of the panels if S had made it clear that it would leave her out of pocket.*

*For the solar panels to pay for themselves, they would need to produce combined savings and FIT income of just at least £772 per year. I have not seen anything to indicate Mrs P's system was not performing as expected, indeed it appears to be performing better than expected, but her system has not produced this in financial terms. So, these statements were not true. I think S's representative must reasonably have been aware that Mrs P'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 S's representative would have known that Mrs P's system would not produce enough benefits to cover the overall cost of the system in the timescales stated verbally to Mrs P.*

*Considering Mrs P's testimony alongside the available documentation she was shown at the time of the sale; I think it extremely likely S gave Mrs P a false and misleading impression of the self-funding nature of the solar panel system.*

*I consider S's misleading presentation went to an important aspect of the transaction for the system, namely the benefits and savings which Mrs P was expected to receive by agreeing to the installation of the system. I consider that S'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 Mrs P went into the transaction. Either way, I think S's assurances were seriously misleading and false, undermining the purpose of the transaction from Mrs P's point of view."*

As mentioned above, Shawbrook has accepted my provisional decision and Mrs P has not responded. Therefore I have seen nothing which alters my findings as set out therein. And so it follows that I uphold this complaint.

### **Putting things right**

In all the circumstances I consider that fair compensation should aim to remedy the unfairness of Mrs P and Shawbrook's relationship arising out of S's misleading and false assurances as to the self-funding nature of the solar panel system. Shawbrook should repay Mrs P a sum that corresponds to the outcome she could reasonably have expected as a result of S's assurances. That is, that Mrs P's loan repayments (be they the regular amounts or the lump sums Mrs P paid to settle the loan early) should amount to no more than the financial benefits she received for the original 10-year duration of the loan agreement.

To put things right for Mrs P, I therefore direct Shawbrook Bank Limited to:

- Calculate the total payments (the deposit and monthly repayments) Mrs P has made towards the solar panel system up until the date of settlement – A
- Use Mrs P's bills and FIT statements, to work out the benefits she received up until the loan term\* – B
- Use B to recalculate what Mrs P should have paid each month towards the loan over that period and calculate the difference, between what she actually paid (A), and

what she should have paid, applying 8% simple annual interest to any overpayment from the date of payment until the date of settlement\*\* – C

- Reimburse C to Mrs P

\*If Mrs P is not able to provide all the details of her meter readings, electricity bills and/or FIT benefits, I am satisfied she has provided sufficient information in order for Shawbrook to complete the calculation I have directed it to follow in the circumstances using known and reasonably assumed benefits.

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

### **My final decision**

For the reasons I've explained, I uphold this complaint and Shawbrook Bank Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 9 January 2025.

Siobhan McBride  
**Ombudsman**