

The complaint

Mr T complains about a Green Deal finance loan he took out with Infinity Energy Organisation Limited. He says he was misled at the time of arranging the loan and believed he was entering into a roof renting scheme, whereby he would be paid for putting solar panels on his roof. Mr T is unhappy after finding out this is not what he has and he has instead taken out an interest bearing loan that he is now required to pay back.

Mr T is represented in his complaint by a relative, but for ease I shall refer to all submissions from both Mr T and his representative as if made by Mr T.

What happened

In the summer of 2015 Mr T entered into a Green Deal arrangement through a company I shall refer to as G. The result of the arrangement was that Mr T received solar panels for his roof, a new boiler and heating controls for the radiators. The cost of this was funded through a Green Deal loan with Infinity Energy Organisation Limited, which Mr T would be required to repay through his energy bills each month.

Mr T would receive energy savings and should have received FIT (Feed in Tariff) payments for the solar panels. Along with being more energy efficient and helping the planet, the Government's Green Deal initiative was designed to allow consumers access to energy savings measures at what should have been a cost neutral position, i.e. the savings generated by the new energy saving measures were more than, or at least the same as, the cost of those measures.

Mr T did receive the energy saving measures and does now have a loan to repay the cost of acquiring these. Mr T has not however received the FIT payments as they appear to have been assigned to an agent of G who arranged everything.

Mr T believes he has been misled as he believed he was agreeing to these measures in return for renting out his roof space (for the solar panels) and was unaware he had taken out a loan to pay for the measures. Mr T says that English is not his first language and things were not made clear to him by the agent of G.

Mr T's complaint was considered by Infinity Energy Organisation Limited and its response was essentially to say it did not find sufficient evidence to demonstrate Mr T was told he would be renting out his roof space. Mr T's complaint was referred to our service, where it was considered by one of our investigators.

They explained in some detail what the Green Deal initiative was, how this should work and how things should have been explained to Mr T before he agreed to enter into the arrangement. The investigator also set out what the 'Golden Rule' was and how it was a requirement of the Green Deal plan that the annual repayments required on the loan could not exceed the estimated first year benefits. The estimated benefits Mr T should have expected to receive included the FIT payments and therefore that those payments would be made to Mr T. But as the FIT payments appear to have been assigned to the agent of G, Mr T would not receive those payments or therefore achieve the savings that were anticipated.

The investigator found that Mr T was likely misled about the plan and had he not been misled, he would not have entered into the arrangement. But, Mr T had benefited from the energy saving measures, albeit not by as much as expected, and the investigator found that Mr T should therefore pay something towards the cost of the energy savings measures. The investigator set out how Infinity Energy Organisation Limited should now put things right, which was, in summary, by calculating how much Mr T would have essentially overpaid to the Green Deal loan and paying Mr T that sum.

Disappointingly, we received no response to the investigator's view from Infinity Energy Organisation Limited. Mr T responded and explained why he was unable to accept the findings of the view. He believes a number of factors have been overlooked as they were not responded to in the view, including the language barrier, which has not been considered. Mr T questions the reference to self funding but he was given two options at the time, one to buy the solar panels without a loan, or rent out the roof space and receive free solar panels.

Mr T questions why he would want a new boiler when he already had one and why would he incur significant cost, including interest on a loan, in replacing an existing boiler. Mr T also raised that he does not believe the solar panels are working correctly and does not consider they are providing the savings suggested in the investigator's calculation.

To accept the investigator's recommendation, Mr T requested the solar panels are checked by another third party to ensure they are working fully and have the FIT payments transferred to him within a reasonable period. Or, he would take care of uninstalling the measures if the loan is cancelled and the costs refunded to him.

As the complaint could not be resolved informally, it has been referred to me so that a final decision can be issued.

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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. Mr T may believe that as certain points are not specifically referred to they have not been considered. But I can assure Mr T and Infinity Energy Organisation Limited that everything has been considered, even if it is not specifically mentioned in this decision.

I do not consider it necessary to refer to every point the parties have made. No discourtesy is intended by this, instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Infinity Energy Organisation Limited is the credit provider (lender) who provided the funds for the energy efficient measures. As the investigator has explained, Infinity Energy Organisation Limited is responsible for the actions of G when setting up the arrangements and loan and this is through S56 Consumer Credit Act. This refers to Antecedent

Negotiations and I'm satisfied that although G arranged the loan with Mr T, Infinity Energy Organisation Limited is responsible for what Mr T was told at the time by G when the loan was being arranged.

As already referred to above, the arrangement that Mr T has entered into is a Green Deal initiative. The investigator has set out in depth the background to this Government initiative, what its intentions were, how it should have worked and what G, on behalf of Infinity Energy Organisation Limited was required to do when arranging things with Mr T. As this has already been set out to the parties clearly by the investigator, I do not see the benefit in repeating that all again here. There is one particular element of the Green Deal requirement that I do however think is of particular relevance and importance and have again set out what the requirements were around this.

The Golden Rule was included in the initiative and broadly meant that the cost of finance that could be provided for the energy saving measures was specifically limited to the estimated financial benefit the customer could expect to receive from those measures. This limitation was partly constructed through a comparison of the estimated saving from having the benefits with the repayments made, in the first year of the agreement.

The Golden Rule forms part of the legislative provisions governing the Green Deal plans and this is set out in regulation 30 of the Framework, which states:

"The first year instalments must not exceed the estimated first year savings..."

As the Plan remained with the property, and so was not dependent on the usage of energy by the specific occupant at the time of the assessment, the total amount of finance that could be provided was based on the benefits that could be achieved for a typical property of the type the consumer had.

Before entering into a Green Deal plan, the provider had to estimate the overall savings which were likely to be made if the improvements were carried out. It was also the responsibility of the provider to ensure the Golden Rule was satisfied and that it was properly explained to the consumer.

The Green Deal finance agreement with Infinity Energy Organisation Limited sets out the cash price of £9,500 for the total cost of the three measures. After interest, fees and charges and an 'advance payment' of £872.80, the total amount financed was shown to be £8,690.44.

The agreement sets out the repayments required and these are shown as a daily charge over the duration of the loan. The overall cost of the repayments is £15,381.23. The agreement also refers to Mr T's estimated first year savings, which are shown as being £943.44.

As referred to above, the requirements of the Golden Rule are also included in the finance agreement and refers to *...the total estimated first year savings must be equal to, or greater than your repayments in the first year of this credit agreement. This is called the 'Golden Rule'.*

The annual repayments required under the Green Deal credit agreement are approximately £938.05, which is clearly less than the estimated savings of £943.44. Considering this in isolation, it would appear that the Golden Rule was met here, as the savings are likely to exceed the cost of the measures.

But one of the well-known benefits of solar panels is that the consumer is then eligible for

FIT payments. From what I have seen in this case, I think it is more likely than not that the FIT payments would have been incorporated into the savings that Mr T was told he would receive. But as already referred to above, it appears Mr T would not be in receipt of the FIT payments as these were assigned elsewhere.

G should also have been aware that any assignment of FIT payments to a third party would lower the overall savings that the customer would make as a result of the measures. So, if a customer needed to assign part of the FIT payments to a third party in order to be able to afford to have the measures installed, the associated reduction in the overall savings would need to be taken into account when considering whether the plan – including the whole package of agreed improvements – met the Golden Rule.

As the assignment of the FIT rights did reduce this overall saving below the annual cost of the finance, I don't consider the plan met the Golden Rule. I also think that by indicating to Mr T that the measures being financed through the plan would result in an estimated overall saving, G provided Mr T with misleading information. Had Mr T been made aware that he would not receive the FIT payments and any savings made would not offset any cost, I consider it more likely than not that Mr T would not have entered into the arrangement or therefore the loan with Infinity Energy Organisation Limited.

I should also highlight at this point some concerns about the intentions of G in reassigning the FIT payments, especially as these appear to have been assigned to the individual who set up the arrangement. One has to seriously question why Mr T was prevented from receiving the FIT payments, which as I have set out, are an integral part of the savings. There has been no explanation as to why the FIT payments were assigned, why Mr T would give up such a benefit or how the plan would now adhere to the Golden Rule. It appears that the individual at G would be the sole beneficiary of transferring the FIT payments, at huge cost to Mr T.

The actions of the individual at G here support the conclusions I have reached about Mr T not being correctly informed about the arrangement he was entering into.

Mr T has explained consistently that he understood he was entering into an arrangement where he would essentially be renting out his roof space for the solar panels. I accept this may have been part of the discussion with the individual at G but I have seen no supporting evidence that indicates this was actually discussed. Or that it is what was being arranged in the paperwork.

I have noted what Mr T has said about the language barrier and that this has contributed towards him being misled. I accept there was some considerable documentation provided to Mr T setting the terms of the arrangement and the loan agreement with Infinity Energy Organisation Limited. I appreciate Mr T may not have read and understood all of the documentation but consider it reasonable to expect Mr T to have called upon a relative or friend to read and explain the documents if he did not understand what he was agreeing to.

That said, as I have set out above, I still consider Mr T was misled as what he has actually ended up with is not what is set out in the paperwork. Nor does it adhere to the requirements of the Green Deal Initiative, now that the FIT payments have been assigned elsewhere.

Mr T also argues there would be no need to take out an interest bearing loan to fund the cost of the improvements as he had savings that could have been used. The intention of the Green Deal plan was to ensure the cost of any loan, i.e. interest, fees and charges, would be accounted for within the Golden Rule. Mr T having some savings does not therefore persuade me that the interest on this loan agreement should be waived, which I believe is what Mr T is implying.

Putting things right

As I have found that Mr T was misled into entering into the arrangement and loan with Infinity Energy Organisation Limited, I'll now set out what I consider is reasonable to put things right.

I have noted in detail what Mr T has said throughout the complaint and in particular in response to the investigator's view about redress. The energy saving measures have been installed and like the investigator, I consider it would result in significant inconvenience and cost if those measures were now removed. It is therefore reasonable in my view for these to remain installed and I do not instruct Infinity Energy Organisation Limited to now meet the costs of removing those measures, which would leave Mr T without a boiler, or require a replacement to be installed.

It would in my view be reasonable in the circumstance here for Mr T to pay for the measures he has received as he has and will continue to have benefit from the three measures he had installed. I've noted Mr T's comments about why would he pay for a new boiler when he had a working boiler already. But I note that in correspondence with the individual at G it is noted that Mr T's boiler was not working at the time.

There is now no way of being certain whether or not there was in fact a working boiler at Mr T's property at the time. Or if the boiler was working, how old it was and whether it was shortly due for replacement. Mr T has nonetheless benefitted from the new boiler and I am satisfied therefore in the circumstances here that he should meet the cost of the new boiler.

The solar panels should still be beneficial to Mr T even if he is not receiving the FIT payments and he should therefore see lower electricity bills compared to had he not had the solar panels fitted. I therefore consider it reasonable for Mr T to contribute towards the cost of the solar panels, albeit the initially expected sum, including interest, will now be less than initially set out to account for not receiving the FIT payments.

Mr T has said that if the FIT payments are transferred to him and the loan cancelled he would take care of removing the energy saving measures. The complaint here is against Infinity Energy Organisation Limited and I only have the power to make an award and instruction against Infinity Energy Organisation Limited. But Infinity Energy Organisation Limited does not have the FIT rights and is to my knowledge not receiving the FIT payments. Because of this, it would not have the ability to transfer those FIT rights back to Mr T and I cannot make an award or instruction against the individual I understand has the FIT rights.

While I appreciate Mr T may remain unhappy with the remedy I have set out here I am satisfied it does in the broader circumstances of this complaint represent a fair and reasonable remedy and should mean that Mr T is required to pay no more than the benefits he should likely receive from the energy savings measures. Put a slightly different way, over the duration of the Green Deal loan term with Infinity Energy Organisation Limited, the solar panels, boiler and control valves should be cost neutral and not actually cost Mr T anything. This is also in line with the original intentions of the Green Deal plan and Golden Rule and could have more easily been achieved had the FIT payments not been assigned elsewhere.

While it is clear what Mr T has been required to pay and will be required to pay to the Green Deal loan, as the amounts are set out in the Green Deal finance agreement, determining exactly what savings Mr T has achieved and will achieve in the future is more difficult. I note Mr T has very recently said that he does not believe the solar panels are performing as well as they should be but that is a separate issue that would need to be considered outside of this complaint. There may be various factors affecting the performance of the panels and these would need to be investigated and considered separately to this complaint. Should the

panels be found to have been defective from the outset or poorly installed, Mr T may have grounds to complain about this to the installer or possibly to Infinity Energy Organisation Limited through S75 Consumer Credit Act. I would suggest Mr T discuss this further with the investigator if necessary and I will not make any further comment here.

The investigator set out in the view a method for calculating how Mr T is likely to have lost out and what Infinity Energy Organisation Limited should now do to put things right. We received no further comments from Infinity Energy Organisation Limited about this proposal and I have considered what Mr T has said about this. I appreciate it may not include a clear monetary figure and I realise why Mr T would prefer this. However, the method is clear in my view and should enable Infinity Energy Organisation Limited to calculate what amount is now due to Mr T. Should Mr T have any questions after the monetary amount has been established, and Infinity Energy Organisation Limited is unable to answer them, Mr T may refer back to the investigator who will be able to assist.

As referred to above, the general intention of the redress should mean that Mr T is required to pay no more than the benefits he should likely receive from the energy savings measures. The cost of the solar panels was £6,500 payable over 23 years and the cost of the boiler and heat controls was £2,600 and £400 respectively, repayable over 12 years. The first year estimated savings was £943.44.

The individual estimated savings for each of the three measures installed at Mr T's home do not separately identify the breakdown of the expected savings. Mr T has not benefitted from the FIT payments and therefore has no record of the FIT statements or the benefit of the panels. It is not possible to estimate what income Mr T has therefore lost in respect of this. In the absence of the individual measure's savings, like the investigator has set out, I consider it reasonable to apportion the first year estimated savings of £943.44 proportionately across each of the three measures, under the total cash price of £9,500.

Measure	Cash Price	% of overall cost	% of first year savings
Solar panels	£6,500	68.4%	£645.31
Boiler	£2,600	27.3%	£257.56
Heating Controls	£400	4.2%	£39.62

The repayment term of the boiler is shown to be 12 years on the Green Deal credit agreement. When considering what the Golden Rule sets out it would be reasonable in my view to limit the amount Mr T should pay for this measure to an amount equivalent to the savings he would have likely received over the repayment term. I calculate that to be £3,090.72 (£257.56 X 12 years) for the boiler, and £475.44 (£39.62 X 12) for the heating controls.

Turning to the solar panels, as I have set out above, Mr T has not received the FIT payments for the solar panels. But he would however have received the savings on his electricity usage, and it would in my view be reasonable to include these savings in any repayment calculation.

I have noted that Mr T disputes the likely benefit he is receiving from the solar panels but I have not seen anything that supports this or shows the solar panels are performing in a way that was less than anticipated. Again, as the investigator has set out, The Energy Savings Trust has looked at the electricity usage at a wide range of properties over different times in the day, they found that on average consumers actually used 37% of the energy from their panels to reduce their electricity usage. Bearing this in mind, I think 37% of £645.31 was

likely to be the first-year benefit Mr T received from the panels, which is £238.76. The Green Deal credit agreement says the repayment period for the panels is 23 years and in my view Mr T should therefore pay no more than £5,491.48 for this measure.

So for all three energy saving measures Mr T should be required to pay no more than £9,057.64 (£5,491.48 + £3,090.72 + £475.44) in total. Infinity Energy Organisation Limited should now take steps to ensure Mr T does not pay more than £9,057.64.

To do this, Infinity should calculate how much Mr T has paid towards the Green Deal loan:

- A. If he has paid more than £9,057.64 Infinity Energy Organisation Limited should refund any payments made above that amount, with 8% simple interest from the date of each payment until the date of settlement, and pay Mr T a sum equal to the amount left to pay on the Green Deal loan.
- B. If Mr T has not yet paid £9,057.64, Infinity Energy Organisation Limited should calculate when Mr T has paid this amount and then calculate what amount remains due under the loan. Infinity Energy Organisation Limited should then pay Mr T that amount.

I have made my concerns clear about the intentions of the individual at G in respect of transferring the FIT rights from Mr T. I haven't seen a full copy of the contract for this transfer, so cannot say what additional costs Mr T may be liable for, if in the future, he decides to remove the solar panels from the property and/or sell his house. Without seeing the full contract, itself, at this stage it's unclear what the liabilities could be, if any.

Additionally, there's no guarantee when these liabilities will arise, if at all. Therefore, to resolve this issue, it would be reasonable for Infinity Energy Organisation Limited to propose to undertake any/all liabilities that may arise from a third party, in relation to the sale of the FIT contract. Should this arise in the future Mr T should in the first instance contact Infinity Energy Organisation Limited setting out the issue and the costs involved.

Finally, I agree with the investigator that Infinity Energy Organisation Limited could and should have done more when dealing with Mr T's complaint and consider this caused Mr T some further distress and inconvenience.

There was a lack of support when Mr T first raised his complaint and by not dealing with the issue as a formal complaint and seeking to pass liability to G – which is a dissolved company, caused delays and additional work for Mr T that could have been avoided. It is also disappointing that Infinity Energy Organisation Limited has not responded to the investigator's view.

In addition to what I have set out above about calculating what Mr T has and will be required to pay to the Green Deal loan and meeting any liabilities in the future that Mr T may incur in relation to the FIT rights, Infinity Energy Organisation Limited must pay an additional £200 to Mr T.

My final decision

While I appreciate Mr T may remain unhappy with the findings I have reached here, my final decision is that I uphold Mr T's complaint and direct Infinity Energy Organisation Limited to settle the complaint in accordance with what I have set out above.

Infinity Energy Organisation Limited should ensure that settlement is completed as quickly

as possible once Mr T has told us whether he accepts this final decision. If the complaint is not settled within 28 days of Mr T accepting this decision Infinity Energy Organisation Limited should add interest to the £200 payment referred to above. Interest should be calculated at 8% simple per year from the date of this final decision until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 3 March 2025.

Mr T is under no obligation to accept this decision, but this does represent the last stage in our process. If the final decision is not accepted within the stipulated acceptance period, it will not be binding on Infinity Energy Organisation Limited.

Mr T would be free to continue his dispute with Infinity Energy Organisation Limited, but he would need to do so through alternative means, such as court.

Mark Hollands
Ombudsman