

## **The complaint and what happened**

Mr and Mrs G have complained about Shawbrook Bank Limited's response to a claim they 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 December 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 Mr and Mrs G were induced into buying the solar panel system at the heart of this dispute by misrepresentations, which resulted in there being a loss to them and fundamentally an unfair relationship between them and Shawbrook.

I asked both parties to let me have any more information they wanted me to consider. Mr and Mrs G accepted my provisional findings and Shawbrook 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 March 2017, Mr and Mrs G bought a solar panel system ('the system') from a company I'll call "P" using a 15-year fixed sum loan from Shawbrook.*

*In March 2023 Mr and Mrs G complained to Shawbrook via a professional representative. They said that they were told by P that the 'feed in tariff' ('FIT') payments and electricity savings they would make would cover the cost of the loan repayments, however that hasn't happened, and they've suffered a financial loss. They also believed that what happened at the time of the sale created an unfair relationship between them and Shawbrook.*

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

*Unhappy with Shawbrook's response, Mr and Mrs G referred their complaint to our service.*

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

*Shawbrook accepted the investigator's view. Mr and Mrs G didn't, and their representative provided detailed submissions about the quality of the documentary evidence that was pivotal to the investigator's outcome. 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.*

*Mr and Mrs G has said that they were told by P's representative that the cost of the system would be fully paid for by the FIT payments they would receive and the savings they would make on their electricity charges. This happened after they responded to an advertisement by P on social media. I haven't seen any evidence they had any prior interest in purchasing solar panels or substantial motivation beyond a financial one.*

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

*But crucially, there is also a 38-page customer quotation prepared by P for Mr and Mrs G, which contains a lot of information. In reaching his view that a misrepresentation hadn't occurred, our investigator focused on one particular page of that quotation, not unreasonably.*

*In response, Mr and Mrs G's representative provided detailed submissions about that page and the validity of the figures on it. Shawbrook then provided its comments in response to that critique.*

*In reaching my provisional decision, I have thought about the quotation document more holistically and will explain why I think the ultimately contradictory (to the lay reader) data contained within it fatally undermines the document as a source of clear information for Mr and Mrs G.*

*As may be expected in a document of this length, there are multiple references to the estimated performance of the system, both in technical terms (such as wattages) and financial. There are line graphs, tables and simple graphics which together deliver the overall impression of the benefits Mr and Mrs G should expect, and how long it will take for the system to bring in enough income to cover both monthly repayments, and its total cost.*

*Working sequentially through the pages of the document, I will discuss those pieces of information that I think are most accessible and comprehensible to the reader, and relevant to the crux of this complaint.*

*The first items of data of note are on page 2, which has the following graphics:*



*I think it is reasonable to assume that this was telling Mr and Mrs G that they should expect the system to bring in about £818 per year, and that was enough income to cover the*

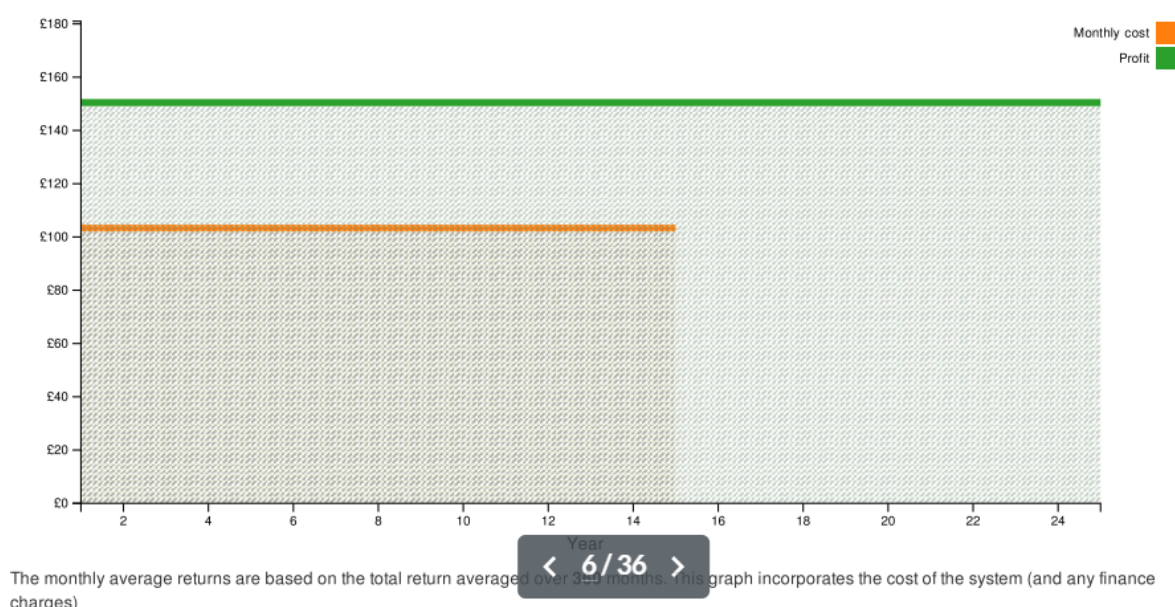
system's total cost within 10 years. The comparatively exceptionally small footnote explains that is only if Mr and Mrs G pay cash for the system, rather than financing it.

On page 5, the "gross total" cost of the system is given as £9,673.12. Whilst there is a lot of small print on that page, none of it appears to provide the clarification that sum is, again, for a cash purchase. And, of course, P knew that Mr and Mrs G weren't paying cash for the system, as it was brokering the credit agreement with Shawbrook. I note that the date of the quotation and signing of the agreement is the same. So it isn't a question of P believing on that day that this would be a cash purchase. I don't think the phrase "gross total" is an accurate representation of the actual cost to Mr and Mrs G.

To return to page 2, I also fail to understand how ten years income of £818.75 could lead to an estimated payback time of ten years for a total cost of even £9,673.12. It ought to be more like twelve years. However, as that wasn't the true cost of the system, that isn't pivotal in any event.

On page 6, a line graph is provided to show the difference between the monthly cost of the system and the returns expected:

Your Average Monthly Returns Over 25 Years With RPI and Increase in Electricity Costs against the monthly cost of the system



This time, the small print confirms that finance charges are included in this data. But that the figures have been averaged out over 30 years. This seems to me an unusually long period of time to use, and in my experience system performance is rarely estimated with any confidence over more than 25 years (which is, interestingly, the time span referred to in another part of the document). And the quotation elsewhere only guarantees that the system will generate income for 20 years. In any event, given the way the graph is set out, I think it would be reasonable for the lay reader to assume that the system would more than pay for the monthly repayments from the very beginning.

On page 8 and 9, the "System Analysis" is set out. It is these pages that have formed the basis of the dispute and discussion so far in this case. It includes a series of what are effectively tables, providing both technical and financial information about the system's expected performance. It breaks that down by FIT income, energy savings, and savings from some optional extras that Mr and Mrs G had agreed to buy. Understandably, our investigator highlighted that these pages set out that the total income and savings in year 1 would be £818.75. So that casts doubt on why Mr and Mrs G would have accepted that the system would be self-funding, given on page 10 the monthly repayment they had chosen of £102.29 was also set out.

Mr and Mrs G's representatives have highlighted failings with the "System Analysis" and the information it contains. I think their comments are valid. For example, they highlight that the total year 1 income and savings are only partially made up of FIT generation and energy savings. In fact, over 35% of the total income projected was seemingly going to come from the optional extras, which does seem optimistic. And one of those ultimately could not be installed in any event. We have queried the calculation with Shawbrook, who said that P assumes it, "...had set 20% savings on electricity bills...", from the optional extra that was installed. Shawbrook says this was within guidelines at the time, but has provided no evidence of that. Mr and Mrs G's representatives point out that on page 17 of the document, P set out that 12% savings were expected, not 20%. So I don't find the explanation offered by Shawbrook adds much by way of explanation. In any event, the accuracy of that particular calculation is not the fact on which this case turns.

Moving on through the document, I can see that on pages 11 and 12 a large table was provided setting out cumulative benefits received; estimated monthly return; and the average monthly repayment difference for different payment terms. As mentioned, Mr and Mrs G chose a fixed sum loan lasting 15 years, so that table has been highlighted by P. And, contrary to the line graph on page 6, this table suggests that Mr and Mrs G will have a shortfall in terms of their monthly repayments only for the first seven years of the system's life. From that point, the final column shows that income from the system will exceed cost and continue to increase.

I think all parties agree that the quotation document was likely central to the sales conversation that took place between P's representative and Mr and Mrs G. But my overall conclusion about the quotation document is that it cannot be relied upon in this instance as a clear, and comprehensible source of accurate information. It includes various calculations made on different bases (some of which aren't fully understandable) and provides what are ultimately confusing representations about the system. Those include that the system will pay for itself each month from the outset; that the system will pay for itself each month from year 8; that the "gross total" cost is less than £10,000; that the system will pay for itself within ten years; and that the system will provide an annual income of £818.75.

Given the volume of contradictory representations contained within the quotation document, I think Mr and Mrs G would have had no choice but to look to P's representative to help them understand what the panels would bring in and how much they would benefit from the system.

As mentioned, I've seen no evidence of any motivation other than a financial one on Mr and Mrs G's part to agree to the panel installation. So, on balance, I think it is more likely than not that Mr and Mrs G would not have agreed to the installation of the panels if P had made it clear that it would leave them out of pocket. I cannot identify any other logical conclusion at this point.

For the solar panels to pay for themselves, they would need to produce combined savings and FIT income of just at least £1,224 per year. I have not seen anything to indicate Mr and Mrs G's system was not performing as expected, indeed it appears to be performing better than expected, but the system has not produced this in financial terms. So, these statements were not true. I think P's representative must reasonably have been aware that Mr and Mrs G'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 P's representative would have known that Mr and Mrs G's system would not produce enough benefits to cover the overall cost of the system in the timescales stated verbally to Mr and Mrs G.

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

I consider P's misleading presentation went to an important aspect of the transaction for the system, namely the benefits and savings which Mr and Mrs G were expected to receive by

*agreeing to the installation of the system. I consider that P'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 and Mrs G went into the transaction. Either way, I think P's assurances were seriously misleading and false, undermining the purpose of the transaction from Mr and Mrs G's point of view."*

As mentioned above, Mr and Mrs G have accepted my provisional decision and Shawbrook 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 Mr and Mrs G's relationship with Shawbrook arising out of P's misleading and false assurances as to the self-funding nature of the solar panel system. So I'm directing Shawbrook to recalculate the original loan based on the known and assumed savings to Mr and Mrs G from the solar panels over a ten-year term so they pay no more than that, and they keep the solar panel system.

To do that, it's important to consider the benefit Mr and Mrs G have received by way of FIT income and energy savings. They will need to supply up to date details, where available, of electricity bills and current meter readings to Shawbrook.

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

Mr and Mrs G must then decide how they would like their overpayments to be used, choosing from the following:

- a) the overpayments are used to reduce the outstanding balance of the loan and they continue to make their current monthly payment resulting in the loan finishing early;
- b) the overpayments are used to reduce the outstanding balance of the loan and they pay a new monthly payment until the end of the loan term;
- c) the overpayments are returned to Mr and Mrs G and they continue to make their current monthly payment resulting in the loan finishing early; or
- d) the overpayments are returned to Mr and Mrs G and they pay a new monthly payment until the end of the loan term.

If Mr and Mrs G are not able to provide all the details of their meter readings, electricity bills and/or FIT benefits, I am satisfied they have 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 Mr and Mrs G how much it's taken off. It should also give them a tax deduction certificate if they ask for one, so they 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 G and Mr G to accept or reject my decision before 4 February 2025.

Siobhan McBride  
**Ombudsman**