

The complaint

Mr M has complained that Creation Consumer Finance Ltd “Creation” rejected his claim against it under Section 75 of the Consumer Credit Act 1974 “The Act”.

What happened

Mr M bought solar panels (the system) for his home in 2021. The purchase was funded by a loan from Creation, and that business is therefore liable for the misrepresentations and/or breach of contract by the supplier under the relevant legislation. In this case, Mr M alleges that the supplier did not correctly install the system (or it is inherently faulty) and it has not performed in line with expectations. He would like a full refund of the amounts he paid for the system, or he wanted the system to be inspected and repaired (potentially having optimisers fitted) in order to make sure the system does perform as it was designed to. The system was installed in the middle of July 2021.

Mr M appears to have raised concerns over the performance of the system as part of a survey carried out by the supplier. On 10 January 2022, the supplier responded to Mr M saying that it felt the system was working as they expected it to, and the readings looked good. They set out the readings from July (half month) to December 2021 in the email.

In March 2023, in order to try to improve the performance of the system, Mr M paid a third-party supplier to fit more panels to his roof. Mr M says other than fitting some more panels and upgrading the inverter (to enable the new panels to function), the existing system was left untouched.

Still unhappy with the way the system was performing, Mr M raised a section 75 claim in 2024. After liaising with the suppliers, Creation said Mr M used a third-party supplier to modify the system in 2023 and the problems with the system performance is attributed to that modification so Creation did not uphold his complaint. Mr M then referred the matter to this service.

Mr M's complaint was considered by one of our investigators. She thought that the problems with the system performance were present from installation, so she asked Creation to inspect the system, make any repairs and give Mr M £50 compensation for the trouble and upset caused. During the course of our investigation, Creation also told us that whilst Mr M had initially been quoted for a 3.3 kWp system of 11 panels, on the day of installation, he was given a quote for a 3.0 kWp system of 10 panels as they were unable to fit the 11 panels. But Mr M was charged for the 11-panel system. Because of this, our investigator also asked creation to refund the amount Mr M had been overcharged by.

Mr M agreed with our investigator's view of the complaint and the remedy recommended. But Creation still re-iterated that the system's poor performance was post 2023 – when the third-party supplier made changes to the system. It felt Mr M was obligated to independently prove that the system was faulty as the performance issues happened more than 6 months after installation.

As the complaint couldn't be resolved by our investigator, I've been asked to make a

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.

As Mr M paid for the system with a fixed sum loan agreement, Creation agrees that section 75 of The Act applies to this transaction. This means that Mr M could claim against Creation, the creditor, for any misrepresentation or breach of contract by the supplier in the same way he could have claimed against the supplier. So, I've taken section 75 into account when deciding what is fair in the circumstances of this case.

Having carefully considered everything provided, for broadly the same reasons as those explained by the investigator, I uphold this complaint and I'll explain why.

Price paid for the system.

I can see Mr M was given two quotes - one in May 2021 for a system with 11 panels with an estimated generation of 2269 kWh and one in July 2021 with 10 panels with an estimated annual generation of 2021 kWh. The bigger system cost £7,711.28 and the slightly smaller system cost £7,459.53.

Creation says it was the smaller system that was installed, but Mr M's credit agreement shows he paid £7,711.28. It does look like he was overcharged so, as recommended by our investigator, I think Creation should refund to Mr M the amount he has overpaid.

I will, however note, that Mr M's MCS certificate which is normally registered by the supplier indicates that he had the 3.3 kWp system installed with an estimated annual output of 2269 kWh. The MCS certificate should reflect the actual system installed, so to me, it does look like the supplier has made mistakes in this installation. It changed the size of the system on the day of installation and subsequently registered a system which is bigger than the actual system installed.

Performance of the system

Creation has repeatedly asserted that the problems with the system performance began after 2023 when Mr M paid for a third-party supplier to add further panels to the system. But its supplier's own readings from the first 6 months show the system was significantly underperforming post installation, and Creation hasn't once explained why that happened, or why its supplier told Mr M that the system was performing in line with expectations, when it clearly wasn't.

The readings set out by the supplier in its email of 18 January 2022 says the following:

July 2021 - 63.9 kWh (only half month as the system wasn't installed until the middle of July)
August 2021 – 200 kWh
Sept 2021- 126 kWh
Oct 2021- 80.6 kWh
November – 36.8 kWh
December 2021: 20.2 kWh

Without including the month of July given that it only covered half the month, the total from 1 August to the 31 December 2021 – was only 463.6 kWh. This gives an annual generation 1113.25 kWh.

I think it's very clear that this system was underperforming during the first 6 months post installation and despite this being raised by Mr M, he was told by the suppliers that the readings were good, and the system was performing as expected. I don't see how that can be the case. The system should perform in line with the MCS certificate of 2269 KWh, but even if we accept that the supplier made a mistake and registered an incorrect sized system, and the system was in fact a 3.0 kWp system, then the estimated annual generation should be 2021 kWh. And the readings above, falls so far below that, I don't think it's fair for Creation to claim, that it was performing as it was meant to until the system was modified in March 2023.

An updated meter reading from August 2024 – shows the system is still significantly underperforming with an annual general of around 940.87 kWh and this is despite additional panels being added in 2023.

Third party installer

I understand Creation's concerns about a third-party installer being involved in trying to increase output, and that Mr M doesn't seem to have raised his complaint until 2024, after using a third party to try to remedy the problem. But its clear that Mr M appears to have raised his concerns over the performance directly to the supplier, only to be told that the system readings were good. Although it would have been preferable for him to have raised this with Creation in the first instance, I don't think it's unreasonable (given the response he received from the original supplier), for him to have then sought the advice and help of a third-party installer.

Summary

Having considered all the available evidence, I am satisfied that this system has significantly underperformed since installation, and the problems have existed long before Mr M made any modifications using the third-party installer.

I feel Mr M has raised his concerns directly with the supplier and then sought to try to remedy the problem himself. Unless an inspection shows differently, I have no reason to doubt Mr M's testimony that beyond the changes he's told us about, the original system has been left untouched and Creation should be able to order an inspection of the system and explain why it is underperforming so significantly – and remedy it. If Creation is unable to explain why the system is underperforming so significantly, and has been doing so since installation, and is unable to therefore remedy it, it needs to work with Mr M to find a solution. If Mr M remains unhappy with Creation following its inspection – he can refer the matter to us as part of a separate complaint.

The supplier seems to have overcharged Mr M for a larger system, and then registered the larger system despite installing a smaller system. I think Creation also needs to put this right.

I'm satisfied Mr M has experienced inconvenience in trying to resolve matters and Creation should compensate him for the trouble and upset caused.

Putting things right

- Creation should refund the amount Mr M has been overcharged by (the difference between what he paid £7,711.28 and what he should have paid £7,459.53.). If possible, Mr M should be given an MCS certificate to reflect the actual system that has been installed.

- Creation needs to have the system inspected and put right any faults with the system that is causing the underperformance.
- Creation must pay Mr M £50 for the trouble and upset caused.

My final decision

For the reasons I've explained, I uphold this complaint and Creation Consumer Finance Ltd must put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 March 2025.

Asma Begum
Ombudsman