

The complaint and what happened

Mrs W has complained about Ikano Bank AB (publ)'s response to a claim she made under Section 75 ('s.75) of the Consumer Credit Act 1974 (the 'CCA').

I've included relevant sections of my provisional decision from January 2025, 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 W 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 Ikano.

I asked both parties to let me have any more information they wanted me to consider. Mrs W accepted my provisional findings, but Ikano did not, and provided some further evidence for me to consider. That information hasn't changed my mind about the fair and reasonable outcome to this complaint, and I will explain why in the following section.

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 November 2018, Mrs W bought a solar panel system ('the system') from a company I'll call "E" using a 10-year fixed sum loan from Ikano.

In July 2022 Mrs W complained to Ikano. She said that she was told by E 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.

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 Mrs W's complaint.

Unhappy with Ikano's response, Mrs W referred her complaint to our service.

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

Ikano accepted the investigator's view. Mrs W didn't, and insisted that the benefits of the panels had been misrepresented during the sales conversation. So, the case was progressed to the next stage of our process, an Ombudsman's decision. Since the case has been passed to me, I have had a lengthy conversation with Mrs W (and her partner) in order to understand the evidence in this case better.

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.

Mrs W has said that she was told by E'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. This happened after she and her partner responded to an advertisement by E on social media. 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 W 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 was clear to Mrs W. However, there is no mention on the agreement of the potential benefits of the panels.

But crucially, there is also a 6-page 'Contract of Sale' document prepared by E for Mrs W, which contains some information. In reaching her view that a misrepresentation hadn't occurred, our adjudicator placed significant weight on this contract, not unreasonably.

However, in response to that view, Mrs W reiterated the importance of the discussion and what they'd been told by the salesman who came to their home. Ultimately, I had a lengthy conversation with Mrs W and her partner about the sale which enabled me to understand the role of the contract of sale in their decision to proceed with the installation.

In reaching my provisional decision, I have been persuaded by the testimony provided by Mrs W and her partner, and I'll explain why.

I acknowledge, as was highlighted by Ikano in its original response to this complaint, that the contract of sale sets out that the maximum benefits that could be expected in year one were less than the finance costs. (These having been set out separately on the loan agreement.) And so it indicated that the system would not be self-funding.

In my conversation with Mrs W and her partner, I explored this document at length. They had provided it to us, so clearly had retained a copy. However, it was unsigned, which somewhat surprised me, until they set out how they had no recollection of having seen the document. They were certain that it was not provided to them as part of the conversation with the salesman, and believed it had been later emailed to them after the installation. Given the lack of any party's signature on the document, I think that is plausible.

Overall, I was comfortably persuaded that this particular document had not played a significant role in the sale of this solar panel system. But that alone does, of course, not necessarily equate to a misrepresentation having happened.

I asked Mrs W and her partner to take me through how the entire transaction had unfolded. They confirmed they had responded to an advert on social media and that the salesman had come to the house to do a survey and discuss the system. They described him completing a lot of handwritten drawings and calculations (which he took away with him) to demonstrate where the panels would be put and how they would more than pay for themselves, even if they used finance to fund the installation. Mrs W's partner described at some length how he had pushed back on this point, and told the salesman that he didn't understand how that would be possible. He said he had asked why they would still receive any sort of electricity bill at all if the system would provide such good benefits. He says that the salesman continued writing on pieces of paper and explained that they didn't need to worry about that point. They would earn more through the panels than the system would cost.

I asked Mrs W and her partner to describe their decision-making process. They explained that they were a bit worried about how much money the panels would generate, but that ultimately they believed that the worst case scenario would be that the system would break even. And so they had nothing to lose, and would hopefully make the sort of income that the salesman had described.

Whilst I accept that what they say happened could be untrue, I find that highly unlikely. There was nothing about what Mrs W and her partner said that felt rehearsed, prepared, or polished. On balance, I find that they were more likely than not providing clear and genuine recollections of the sales meeting which lies at the heart of this complaint, and why they had decided to proceed with the installation.

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

For the solar panels to pay for themselves, she would need to produce combined savings and FIT income of just at least £660 per year. I have not seen anything to indicate Mrs W'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 E's representative must reasonably have been aware that Mrs W'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 Mrs W's system would not produce enough benefits to cover the overall cost of the system as stated verbally to Mrs W and her partner.

Considering Mrs W's testimony alongside the available documentation, ultimately; I think it extremely likely E gave Mrs W 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 Mrs W 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 it did not have that effect, they nonetheless represented the basis upon which Mrs W went into the transaction. Either way, I think E's assurances were seriously misleading and false, undermining the purpose of the transaction from Mrs W's point of view."

As mentioned above, Mrs W has accepted my provisional decision and Ikano has not. It rightly highlighted that there was, in fact, a signed version of the 6-page contract I had discussed in my provisional decision. And based on that, it concluded that Mrs W's testimony is not, "...likely to be an accurate representation of the sale..." And therefore my reliance on it is misplaced.

I have thought very carefully about this. Clearly, I accept that Mrs W did see the contract and did sign it prior to the installation being complete. However, the fact that she doesn't remember that some six years later does not fatally undermine the entirety of her and her partner's testimony. The signature, or lack thereof, is not the fact on which my decision turns.

Mrs W had provided the copy she had of that contract, which was unsigned. So I still think it is more likely than not that she was not provided with a copy of it at the point of sale and received a soft copy afterwards. In any event, the fact that she signed it on a given date does not mean that it featured heavily in the discussion with E's representative, or that she was facilitated in comparing it with the cost details shown separately in the loan agreement.

Mrs W's and her partner's testimony about the sale and the conversations continues to be

plausible and persuasive, regardless of the signature issue. I set out why in detail in my provisional decision. I have seen nothing which alters those key 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 W's relationship with Ikano arising out of E's misleading and false assurances as to the self-funding nature of the solar panel system. So I direct Ikano to recalculate the original loan based on the known and assumed savings to Mrs W from the solar panels over a ten-year term so she pays no more than that, and she keep the solar panel system.

To do that, it's important to consider the benefit Mrs W has received by way of FIT income and energy savings. In response to my provisional decision, she has supplied up to date details, where available, of electricity bills and current meter readings to our investigator who will pass these on to Ikano.

In recalculating the loan this way, her monthly repayments will reduce, meaning that she would've to date paid more each month than she should've done resulting in an overpayment balance. As she 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.

Mrs W has indicated that she would like her overpayments to be used to reduce the outstanding balance of the loan and that she will continue to make her current monthly payment, resulting in the loan finishing early. Again, our investigator will reconfirm this with Ikano.

If Mrs W 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 Ikano to complete the calculation I has directed it to follow in the circumstances using known and reasonably assumed benefits.

* If Ikano Bank AB (publ) considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs W how much it's taken off. It should also give her 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 W to accept or reject my decision before 28 February 2025.

Siobhan McBride

Ombudsman