

Complaint

Mrs F is unhappy with the response of Clydesdale Financial Services Limited (trading as Barclays Partner Finance), following a claim against it under section 75 of the Consumer Credit Act 1974 (“the CCA”).

Background

Mrs F was contacted by a company that supplied and installed solar panel systems. Following a sales meeting, Mrs F agreed to enter into a contract with the installer for it to supply and install a solar panel system. To pay for this, Mrs F also agreed to enter into a 10 year fixed sum loan agreement with Barclays Partner Finance (“BPF”).

Mrs F made a claim under section 75 of the CCA via her representative. The representative said that the installer had told Mrs F that the solar panels would be “self-funded” and that the monthly loan repayments would be more than off-set by the feed-in-tariff (“FIT”) income. But that hadn’t happened. Instead, the monthly loan repayments had been much higher than the income.

In its final response letter, BPF said that it didn’t think the benefits of the solar panels had been misrepresented to Mrs F. Unhappy with this response, Mrs F referred her complaint to our service.

Following our involvement, BPF made an offer to settle Mrs F’s complaint. BPF said that it had calculated the potential savings and income to Mrs F over the term of the loan. It said it would restructure the loan so that Mrs F would pay no more than this over the 10 year loan term. It also offered to pay Mrs F £100 for the trouble and upset caused. One of our investigators wrote to Mrs F and explained that they felt the offer put forward by BPF was fair.

Mrs F, via her representative, didn’t confirm whether she accepted the offer from BPF, so the case has been passed to me to consider.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Mrs F says that she was cold-called and during a subsequent sales meeting told that the solar panel system would be entirely self-financing. BPF have accepted that the benefits of the solar panel system were misrepresented to Mrs F and as a result this decision will deal with what I consider to be fair compensation.

The role of this service is to help settle disputes between consumers and businesses providing financial services fairly and reasonably with minimum formality. In cases like this one, determining fair compensation isn’t an exact science. My role is to arrive at a fair and reasonable outcome taking account of the particular circumstances.

I’ve considered whether it would be reasonable to put Mrs F back in the position she would have been in if there’d been no misrepresentation. However, here I don’t think it would be fair or proportionate to require the removal of the solar panel system from her home. Rather, I think the fair outcome here is to put Mrs F in a position where the panels are cost neutral

over the original term of the loan, meaning that Mrs F isn't disadvantaged by the misrepresentation. By allowing Mrs F to keep the panels, I'm satisfied that she will likely benefit from lower electricity bills and FIT payments going forward (i.e. after the loan has finished).

I've carefully considered the methodology BPF has submitted to this service to calculate the total benefits of the solar panel system. This methodology is based on the actual performance and estimated future performance of Mrs F's solar panel system.

When calculating the estimated future benefits of Mrs F's solar panel system, BPF has set out that it will use a number of assumptions. These include the self-consumption rate, electricity price inflation, the degradation rate and the estimated retail price index ("RPI"). I'm of the view that these appear reasonable taking into account the actual known figures. As an example, the actual average RPI for the last four years doesn't seem to be far from the assumed figure. In summary, I'm satisfied that the assumptions that have been used by BPF provide a fair and reasonable basis for calculating fair compensation.

By making the solar panel system cost neutral, or self-funding, Mrs F monthly payments will reduce. This means that she would have previously been paying more each month than she should have done. As Mrs F would have been deprived of any monthly overpayment, I would expect a business to add 8% simple interest from the date an overpayment was made to the date of settlement. BPF has given Mrs F four options as to how she'd like any overpayments and associated interest to be used:

1. the overpayments are used to reduce any outstanding balance of the loan and Mrs F continues to pay her current monthly payment resulting in her loan finishing early,
2. the overpayments are used to reduce the outstanding balance of the loan and Mrs F pays a new, lower monthly payment until the end of the loan term,
3. the overpayments are returned to Mrs F and she continues to pay her current monthly loan payment resulting in her loan finishing early; or,
4. the overpayments are returned to Mrs F and she pays a new, lower monthly loan payment until the end of the loan term.

If Mrs F accepts my decision, she should indicate on the acceptance form which of the above four options she would like to accept.

I'm satisfied that there was sufficient information available at the time that Mrs F first contacted BPF that means her claim should have been upheld. The fact that this did not happen undoubtedly caused her trouble and upset and consequently I'll make an award of £100 to cover this.

My final decision

My final decision is that Mrs F's complaint should be upheld. In full and final settlement of it, I require Clydesdale Financial Services Limited to:

- (a) allow Mrs F to keep the solar panel system,
- (b) estimate the potential savings and income to Mr F from the panels over the 10 year loan of the term and rework it so she pays no more than this. Where possible, it should use Mrs F's electricity bills and FIT statements to do this,

- (c) add 8% simple interest* to any overpayment made from the date the overpayment was made until the date of settlement,
- (d) allow Mrs F to decide how she'd like her overpayments and associated interest to be used, using the four options described above; and,
- (e) pay Mrs F £100 for the trouble and upset caused.

*If Clydesdale Financial Services Limited considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs F how much it's taken off. It should also give Mrs F a certificate showing this, if she asks for one, so she can claim the tax from HM Revenue & Customs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 30 January 2021.

Michael Fisher
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