

complaint

Mrs D complains about an energy product ('Product A') she bought using finance from Creation Financial Services Limited.

background

In summary, Mrs D says that Product A isn't making anywhere near the yearly income she was promised by the supplier ('Supplier B').

Creation initially offered a 50% discount to settle the matter. But Mrs D didn't want this.

Our adjudicator was satisfied that Product A had been mis-sold. She thought that Mrs D should be allowed to return the panels for a partial refund.

Creation said that if Mrs D gets an expert report it could look at arranging for the panels to be fixed if they are found to be faulty. And if they aren't faulty it would consider increasing the compensation it has offered.

Mrs D doesn't accept this so the matter has come 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.

I think Product A was misrepresented

The sales paperwork estimates the overall first year savings would be about £852. I can see that in the first year Mrs D received about £328 in feed in tariff payments. Our adjudicator has also calculated that she saved about £14 in energy bills. I find our adjudicator's workings to be credible. So overall, it looks like Mrs D got about 60% less than the estimate.

Although Mrs D was given an '*estimate*', it is really far off the mark. I think it could be a misrepresentation.

In coming to this conclusion I have also considered that Supplier B was subject to an investigation by a trade body around the time it sold Mrs D Product A. The investigation findings (published after Mrs D bought Product A) found that Supplier B had committed longstanding and serious breaches of good practice. It terminated its trade body membership as a result.

I understand that every case is individual. But the findings by the trade body tie in directly with what appears to have happened in Mrs D's case. Mrs D was given very inaccurate estimates and the trade body says that Supplier A had '*oversold the systems*' and given very misleading information to customers. It also appears that despite previous hearings things had not improved. The hearing also discusses practices which took place around the time Mrs D's sale took place – so I can't be sure things had really improved when Supplier B visited her.

is there a fault with the system?

I know there has been talk of the system being faulty, and possibly having a wrong part fitted (an inverter). There might be some truth in this. But after looking at the compelling evidence I think the root issue here is that the system was seriously misrepresented. I'm not convinced that addressing the inverter issue would necessarily fix the underlying exaggeration of the product benefits. And now the original supplier is no longer around I think it could be problematic trying to get the system fixed anyway.

what about Creation's offer of compensation?

When you consider the actual output she has received compared to what she was promised, and the mis-selling she was likely subject to I don't think Mrs D is unreasonable insisting on rejection here.

I know Creation has mentioned increasing the offer of compensation. But it has said it would first like to get an expert report to decide whether the panels are faulty/can be repaired before it will consider this. Mrs D has said she isn't willing to go down this route – and I can see why she doesn't want to drag things out any longer.

All things considered I think Mrs D should be able to reject Product A for a refund. Creation should arrange to have the panels removed and the property put back to how it was before they were installed.

Mrs D has received some benefit from Product A in the form of feed in tariff payments and electricity savings – so these should be taken off any refund. We already know what Mrs D got in feed in tariff payments up until November 2015. If she accepts this decision Mrs D can show Creation (from her energy provider) what other feed in payments she has received up until the point of settlement so this can be taken off too. The electricity savings are uncertain but I think it is fair to pro rata the estimated £14.60 a year to work out what savings Mrs D has made on a monthly basis up to the point of settlement.

my final decision

Creation Financial Services Limited should:

- arrange to have Product A removed and put things back to how they were before at no cost to Mrs D;
- cancel the finance agreement;
- refund Mrs D all of her payments (including any deposit) to the finance agreement after deducting what she has received from feed in tariff payments and electricity savings up until the point of settlement; and
- pay simple yearly interest at 8% on all refunds from the date of payment to the date of settlement.

If Creation considers it is obliged to deduct tax from the interest element of my award it should provide Mrs D with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 18 November 2016.

Mark Lancod
ombudsman