

## **The complaint**

Mr S complains about Allium Money Limited's response to a claim he made under Section 75 of the Consumer Credit Act 1974.

## **What happened**

In 2021, Mr S purchased a solar panel system ("the system") from a supplier. He paid for it using a loan from Allium. Mr S had a number of issues with the system and tried to resolve these with the supplier (including having the system repaired). He also felt the system had been misrepresented to him because it was not providing the level of benefits he was expecting. Given how long this was taking to get resolved, Mr S eventually contacted Allium to ask for its help.

Allium responded to say it felt the supplier's offers to resolve matters were reasonable and that the system had not been misrepresented to him. Mr S was unhappy with this so complained and asked the Financial Ombudsman Service to look at what happened. Mr S said that to put things right he wanted a significant reduction in the cost of the system, because it was not generating as much electricity as expected and because of the workmanship and service issues he'd had with the supplier. He said that although the supplier had carried out a repair, it had also caused additional damage. And that since then further issues have arisen with the installation.

Our investigator thought the system had been misrepresented and recommended the complaint be upheld and that the loan should be adjusted so the system does not cost Mr S more than the benefit he could expect to receive over a ten-year period (being the term of the loan). She felt that the supplier had offered to resolve most of the other issues and that Allium need not do any more than adjust the loan and arrange for any outstanding repairs to the system to be completed.

Allium rejected this. It did not feel the system had been misrepresented to Mr S because the sales documents made clear the cost and estimated benefits of the system. However, following further discussion, and given the numerous issues Mr S highlighted, Allium offered to remove the system and refund all loan repayments – in effect cancelling the loan agreement and the purchase.

Mr S rejected this as he felt the removal of the system would be too disruptive and inconvenient. It appears that his intention would then have been to purchase a replacement system, and he was unhappy at the prospect of having to apply for a new loan in order to do so. He said he would accept a full refund if he could keep the system, since that would allow him to pay another solar panel company to rectify any ongoing issues (and presumably add more solar panels and battery storage).

Allium rejected this suggestion as being too generous. But indicated it was open to alternative methods of redress. It later offered to provide redress in line with our investigator's suggestion – adjusting the loan so Mr S would pay no more for the system than the benefit he is likely to receive over ten years. Allium engaged an industry body to calculate the likely benefit over ten years, which was £8,563.26. This is £7,380.32 less than

the total amount payable under the original loan agreement – a significant reduction in the cost of the system.

Mr S remained unhappy and did not accept the proposed settlement. He said the calculations were wrong of unreliable and that he would expect additional solar panels and a battery to be installed on top of what was offered. Allium rejected this and asked that an ombudsman make a decision on the complaint.

### **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.

Section 75 of the Consumer Credit Act makes a creditor (in this case Allium) liable for any misrepresentation or breach of contract by a supplier of goods and services (in this case the solar panel system) where the goods or services were purchased using certain types of credit (in this case the loan with Allium). I have the power to look at complaints about how a financial business has responded to a claim under section 75.

So, while I can look at issues around misrepresentation or breach of contract by the supplier (which can include poor workmanship), I can't make Allium compensate a customer for distress and inconvenience caused by the supplier, such as if the customer experiences poor service when trying to resolve issues with the supplier.

Here Allium has accepted that something has gone wrong, and that Mr S should be compensated in some way. It offered to cancel the agreement by removing the system and refunding Mr S his payments. That would've put him in the financial position he would've been in if he'd never agreed to the purchase. That is generally an option where there has been a breach of contract. The other typical option being to enforce the contract. But looking at the contract I'm satisfied that the system installed matches the system that Mr S agreed to purchase.

Mr S was not happy with this, so I think it is fair that some alternative compensation is offered. It is clear that Mr S wants to have a solar panel system. And, if anything, he wants one that is capable of generating and storing more electricity than the one he has.

Mr S says he expected the system to provide for more of his electricity needs than it does. But I'm not persuaded that the evidence is sufficient for me to conclude that the supplier represented the system as doing this. So, I am not going to tell Allium to do anything in terms of improving the installed system.

I'm also mindful that when contacting the Financial Ombudsman Service Mr S said he wanted a significant reduction in the cost of the system. So, I think compensation that does that is appropriate here.

The dispute now is over what that compensation should be. Looking at the sales documents, there is a performance estimate showing the system was expected to provide 3,621 kWh of electricity per year and an estimated financial benefit of £509.24 in the first year. This was from using electricity as it is generated, using electricity stored in the battery, and receiving payments or credits for electricity exported to the grid.

An industry body has validated the calculations and said they were in line with industry standards at the time. So, I don't think I can reasonably conclude that the estimates were a misrepresentation. I appreciate the actual benefits received may have been less than this, but the actual benefits depend on how the customer uses electricity in their home, as well as

other factors such as electricity prices. I think that is why the sales documents include a disclaimer that says, "The performance of Solar PV systems is impossible to predict with certainty due to the variability in the amount of solar radiation (sunlight) from location to location and from year to year. This estimate is based upon the standard MCS procedure and is given as guidance only. It should not be considered as a guarantee of performance."

I appreciate Mr S has raised some concerns that the savings estimates were based on incorrect information – being his level of usage in a smaller property. While I acknowledge what Mr S is saying, it seems to me that this would mean the savings estimates were if anything lower than they should've been. Because a larger property would generally use more electricity than a smaller one. So, if there was an error in the calculation, it does not appear to me that it would've been to Mr S's detriment.

Having taken everything into account, I am satisfied that Allium's offer of settlement in this case is fair and reasonable. So, I am upholding this complaint and directing it to put things right as set out below (which is what it has already offered to do).

In terms of the calculation of the benefit over ten years, I can see that Allium has asked an industry body to do the calculation, and that the settlement is based on this. That seems reasonable and is in line with our approach to redress in this type of case (including the assumptions that have been made).

The savings are based on the amount of electricity Mr S's system has generated (and likely will in the future) and how much of that he has and is likely to use (instead of buying electricity from his energy supplier).

The industry body used the electricity bills closest to the time of sale, which was actually from slightly after the sale. This was used solely to inform the unit price of electricity that Mr S was paying, which on the bill was 17.6 pence per kWh. I understand that prior to the installation Mr S was with a different supplier and was paying 18.55 pence per kWh (at his previous property).

That means the calculation will show the benefit over ten years to be slightly less than it would've been if the pre-installation electricity price had been used. That difference is in Mr S's favour in terms of the settlement of this complaint, since it means he would have to pay less for the system than if the higher unit price had been used to calculate the benefit over ten years.

I note that Mr S has now moved onto a specific electricity tariff that may allow him to make additional savings, which have not been included in the benefit calculation. Again, this is to Mr S's benefit rather than his detriment in terms of the settlement of this complaint.

Mr S also mentioned a six-month delay in receiving certification that would allow him to benefit from export payments. I don't think any account of this need be taken in calculating the settlement. This is because the supplier previously agreed to compensate Mr S for the lost export payments caused by this delay (so he has or will receive that benefit).

Overall, I'm satisfied that the calculations used by the industry body, which informed Allium's settlement offer, are fair and reasonable. And I don't think any additional compensation or redress is warranted.

Mr S has informed us that there are outstanding issues with the system that need repairing. If it has not already done so, Allium should arrange for the system to be inspected and for any issues it is liable for to be resolved.

## Putting things right

Allium should put things right by recalculating the original loan based on the known and assumed savings and income to Mr S from the solar panels over a ten-year period, so he pays no more than that, and he keeps the solar panel system and any future benefits once the loan has ended.

Because the benefit over ten years is less than Mr S agreed to pay for the system under the loan agreement, Allium should restructure Mr S's loan, so he pays no more than £8,563.26 for the system (being the ten-year benefit).

By recalculating the loan this way, Mr S's monthly repayments should've been smaller, meaning that he paid more each month than he should've done, resulting in an overpayment balance. As Mr S has been deprived of the overpayment balance, Allium should add 8% simple interest per year from the date of the overpayment to the date of settlement. Allium previously confirmed the overpayment plus interest would be £952.16 after tax is deducted. Allium should recalculate this amount at the time of settlement since more time will have passed since it did this calculation.

Mr S can choose from the following options as to how he would like the overpayment balance to be used:

- A. to reduce the outstanding balance of the loan and he continues to make his current monthly payment resulting in the loan finishing early,
- B. to reduce the outstanding balance of the loan and he pays a new monthly payment until the end of the loan term,
- C. they are returned to Mr S, and he continues to make his current monthly payment resulting in his loan finishing early, or
- D. they are returned to Mr S, and he pays a new monthly payment until the end of the loan term.

If Mr S accepts my decision, he should indicate on the acceptance form which option he wishes to accept.

If Mr S has settled the loan, Allium should pay him the difference between what he paid in total and what the loan should have been under the restructure above, with 8% interest per year for the time he was without that money.

If Mr S has settled the loan by refinancing, he should supply evidence of the refinance to Allium, and Allium should:

1. Refund the extra Mr S paid each month with the Allium loan.
2. Add simple interest from the date of each payment until Mr S receives his refund.
3. Refund the extra Mr S paid with the refinanced loan.
4. Add simple interest from the date of each payment until Mr S receives his refund.
5. Pay Mr S the difference between the amount now owed and the amount he would've owed if the system had been self-funding

Allium should also pay £100 compensation for the trouble and upset caused.

Allium should also inspect the system to identify any issues for which it is liable and arrange for these to be rectified (if it has not already done so).

**My final decision**

For the reasons I've explained, I uphold this complaint. I direct Allium Money Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 February 2024.

Phillip Lai-Fang  
**Ombudsman**