

## **The complaint**

Mrs L has complained that Ikano Bank AB (publ) ("Ikano") rejected her claim against it under Sections 75 and 140 of the Consumer Credit Act 1974.

## **What happened**

Mrs L bought solar panels for her home in 2017. The purchase was funded by a loan from Ikano, and that business is therefore liable for the acts and omissions of the supplier under the relevant legislation. In this case, Mrs L alleges that the supplier misled Mrs L into believing that the panels would be self-funding. And a claims management company ("the CMC") made a claim on her behalf to Ikano in 2022.

Ikano rejected the claim. It said there was no misrepresentation on the part of the supplier and that Ikano's relationship with Mrs L was not unfair on her.

The CMC then made a complaint on Mrs L's behalf, which Ikano did not uphold. The Financial Ombudsman Service was then asked to look into what had happened. Our investigator did not recommend the complaint be upheld.

Mrs L did not accept our investigator's assessment, so 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.

Section 75 of the Act says that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there's either a breach of contract or misrepresentation by the supplier of goods or services.

Section 140 of the Act allows the courts to decide if the relationship between a creditor and debtor is unfair on the debtor.

I have the power to look at this complaint about whether Ikano's response to Mrs L's claim was fair and reasonable. In doing so, I can take into account the representations of the supplier during the sale, because Section 56 of the Act says that any negotiations between Mrs L and the supplier are deemed to have been conducted by supplier as an agent of the credit provider.

For the purpose of this decision, I've used the definition of a misrepresentation as an untrue statement of fact or law made by one party (or his agent) to a second party which induces that second party to enter the contract, thereby causing them loss.

Having carefully considered everything provided, I do not uphold this complaint.

The CMC said in its letter of claim that Mrs L was told by the supplier that the system would be self-funding because the benefits (income and savings) would cover the monthly loan repayments from the start.

I'm satisfied that Mrs L was provided with the sales documents, as her representative sent us a copy and she signed them at the time of sale.

The sales contract sets out the cash price of the solar panel system (£6,995.00) next to the total estimated year 1 benefit provided by the solar panel system (£463.10). Neither of these figures are hidden away in small print but are, in my view, clearly visible. And Mrs L has signed directly beneath this section.

Mrs L would've been aware at that point that she would be taking a loan and that it was repayable over ten years, because the sales contract indicates this beneath the price. I think the estimated benefit is clearly less than one tenth of the cash price, so wouldn't cover the loan repayments (even if this was based solely on the cash price and didn't include loan interest).

The credit agreement clearly set out what Mrs L was to pay in total for the system, including that the regular monthly repayments were £76.94. While the annual loan repayment was not shown, I think sufficient information was provided for Mrs L to work out that this would be £923.28 – much more than the first-year benefit shown on the sales contract.

Mrs L has acknowledged that the estimated benefits on the sales contract were discussed with her. Her recollection being that she was told the estimated benefit, *"was a conservative assumption of the minimum amount we would receive and that actually the panels would do so much better than that"*. However, this appears to contradict what the CMC has said, which is that Mrs L had told it that there was no detailed discussion of the content of the sales contract.

Overall, I think it is unlikely that Mrs L would've been told the system was self-funding in the way alleged at the same time as being given documents which showed that was not the case.

In reaching this conclusion, I'm mindful that Mrs L's recollection of what was discussed has been somewhat inconsistent and it was almost five years before she made a claim or complaint about the system not being immediately self-funding. I think Mrs L would've realised this shortly after installation and would've mentioned it to the supplier when there was a fault with the system that it repaired. That she took so long to raise this as an issue suggests that what happened in the first years after installation was not contrary to her expectations at the time of sale.

In light of all of this, I am not persuaded there was a misrepresentation that means Ikano acted unreasonably in rejecting her claim under section 75.

With regards the claim under section 140, alleging the relationship between Ikano and Mrs L was unfair on her, I am not persuaded a court would find the relationship to be unfair. I have not found there to have been a misrepresentation. Ikano paid no commission to the supplier. And I have found nothing that persuades me that the relationship was unfair on Mrs L.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or

reject my decision before 22 December 2023.

Phillip Lai-Fang  
**Ombudsman**