

The complaint

Mr G has complained that Ikano Bank AB (publ) ("Ikano") rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

What happened

Mr G bought a solar panel system ("the system") for his home in 2019. The purchase was funded by a loan from Ikano, and that business is therefore liable for the misrepresentations and/or breach of contract of the supplier under the relevant legislation. In this case, Mr G alleges that the supplier misled Mr G into believing that the panels would be self-funding.

Mr G's complaint was considered by one of our investigators. She thought that the documents from the time of sale (which Mr G signed) made it clear that the benefits of the solar panel system would not cover the purchase price and therefore the system would not be immediately self-funding in the way Mr G says he was led to believe. So, the investigator did not think a misrepresentation had taken place.

Mr G disagreed. He said (through his representatives) that the sale was conducted based on verbal representations and he should not be expected to check paperwork to ensure that verbal representations aren't being contradicted in the paperwork.

As the complaint couldn't be resolved by our investigator, 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.

In this case the relevant law includes section 56, section 75 and section 140 of the Act. Section 75 provides protection for consumers for goods or services bought using credit.

As Mr G paid for the system with a fixed sum loan agreement, Ikano agrees that section 75 applies to this transaction. This means that Mr G could claim against Ikano, the creditor, for any misrepresentation or breach of contract by the supplier in the same way he could have claimed against the supplier. So, I've taken section 75 into account when deciding what is fair in the circumstances of this case.

Section 56 is also relevant. This is because it says that any negotiations between Mr G and the supplier, are deemed to have been conducted by the supplier as an agent of Ikano. And section 140A is about unequal relationships between the parties to a credit agreement.

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, for broadly the same reasons as those explained by the investigator, I do not uphold this complaint.

I'm satisfied that Mr G was provided with the sales documents and that he would've seen these at the time of sale, as he has signed the documents.

The contract for the sale of the solar panels sets out the cash price of the solar panel system next to the total estimated year 1 benefit provided by the solar panel system. I think it's clear that the cost of the system was £8,275. The finance type makes reference to Ikano and Mr G's 120-month loan.

Immediately next to this, Mr G's first year benefit is set out as between £79.89 and £159.78.

PAYMENT DETAILS		50% off Annual Output (3): x Export rate:.....p	
Remaining balance due:	£ 8275.00	3. Electricity Bill Saving: You will also save on your electricity bill because you will be able to use less electricity from your electricity supplier.	
Due to installers on completion:	£ 0.00	25%/50% of Annual Output (3): x Electricity unit cost:.....p	
Finance amount (if applicable):	£ 8275.00	£ 79.89	£ 159.78
Finance type:	IKANO 120	(Based on 25% of Electricity Bill Savings)	(Based on 50% of Electricity Bill Savings)
ESTIMATED TOTAL 1ST YEAR BENEFIT: <small>The FIT and the Export tariff are paid for 20 years. They will go up in line with inflation and will be updated every April. Your savings from using some of the electricity generated will also increase if electricity prices rise.</small>		£ 79.89	£ 159.78
		(Based on 25% of Electricity Bill Savings)	(Based on 50% of Electricity Bill Savings)

Normally the sales paperwork reflects the discussions consumers had with the sales advisor, so it looks like the sales advisor discussed both Mr G's costs and estimated benefit with him. I think it's apparent (without doing any calculations) that to repay a loan for £8,275 over 10 years, Mr G would need at least £827.50 per year to cover the cost of just the credit element of the loan. And his maximum benefit of £159.78 falls significantly short of that.

Separately, but on the same day, Mr G signed his credit agreement which shows his monthly payment was £99.08. Again, given the maximum benefit doesn't even cover two monthly payments, I think it's clear that the system benefits wouldn't be sufficient to cover the cost of the loan.

I've thought about Mr G's claim that he didn't (and shouldn't be expected to) check the paperwork to ensure the verbal representations he says the salesperson made were true. However, none of these figures are hidden away in small print, but are, in my view clearly visible. And Mr G has signed directly beneath this section – so, I think he would've, at the very least, seen this comparison when he signed the document (without needing to examine the paperwork). If Mr G had been told something different, on being asked to sign this document, I would have expected him to have questioned what he had been told. I've seen no evidence that he did, so I think that suggests that the document most likely did not contradict Mr G's understanding, at that time.

Overall, I think it would have been clear to him that the solar panels would not be self-funding in the way he says he was told they would be. And I don't think it's likely that he was led to believe the system would be self-funding, when the documents he signed, clearly display such a significant shortfall between the cost and the benefit.

The document described above, in my view, clearly displays the expected first year benefit Mr G would receive against the cash price – which shows the solar panels would not be immediately self-funding. As mentioned above, Mr G then went on to take out finance to fund the purchase of the solar panel system, further increasing his cost, as he agreed to pay not only the cash price of the solar panels, but also interest on top of the amount borrowed. As it was clear the benefit provided by the system would not be sufficient to cover the cash price of the solar panels, I think he ought reasonably to have known that the benefit provided by the system, would also not be sufficient to fund the monthly finance payments which included finance charges on top of the cost of the solar panels.

While I've carefully considered Mr G's testimony, I find the documents from the time of sale to be more persuasive in terms of what information he was likely given at the time of sale. So, on balance, I think the evidence suggests that it is unlikely there was a misrepresentation that would enable me to uphold this complaint.

I've also gone on to consider whether a court may conclude that there existed an unfair relationship under section 140A the Act.

A sufficient inequality of knowledge and understanding is considered a classic source of unfairness in a relationship between a creditor and a consumer. I haven't seen any evidence that Ikano paid any commission to the supplier and, considering that I haven't found any misrepresentation, I think a court is unlikely to conclude that there is an unfair relationship under section 140.

Other issues

Mr G says he told the sales advisor that he couldn't afford credit. But Ikano says it carried out sufficient checks to assess his creditworthiness. We asked for more details and bank statements from around the time of sale to further assess Mr G's claims, but Mr G was unable to provide this. It also looks like Mr G maintained his payments following the sale. So, I haven't seen any evidence that the loan wasn't affordable when it was granted to him.

Mr G also says that the sales advisor used pressure tactics to persuade him to agree to the sale. However, it looks like there were two weeks between Mr G agreeing to the purchase and the installation of the system. Mr G also had a cooling off period. If Mr G didn't want the system, I would have expected him to have cancelled within that period – and I've seen no evidence that he tried to cancel. Pressure can also be subjective, and Mr G hasn't provided much detail as to what was said or done to pressure him specifically. So, I don't uphold his complaint on this basis.

So, while I've thought carefully about these concerns, I don't uphold his complaint for these reasons.

Summary

Having carefully considered the evidence provided by all parties in this complaint, I'm satisfied that there were no untrue statements of fact made by the supplier that induced Mr G to enter into the contract for the system, and I have found no other reason to uphold this complaint. So, I don't think Ikano declining this claim was unfair.

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 Mr G to accept or reject my decision before 20 October 2023.

Asma Begum
Ombudsman