

The complaint

Mrs A has complained that Allium Money Limited Allium rejected her claim against it under Section 75 of the Consumer Credit Act 1974.

What happened

Mrs A bought solar panels for her home in 2020. The purchase was funded by a loan from Allium, and that business is therefore liable for the misrepresentations and/or breach of contract of the installer under the relevant legislation. In this case, Mrs A alleges that the installer misled Mrs A into believing that the panels would be self-funding. Mrs A says given her family's financial situation at the time, she wouldn't have taken on a further financial obligation and only bought the system because she was led to believe the benefits would cover the cost of the loan.

Mrs A's complaint was considered by one of our investigators. She thought that the benefits of the panels were likely mis-represented to Mrs A, and that fair redress would be for the loan to be restructured to make the panels cost no more than the benefit they would provide over the ten-year term of the loan.

Allium did not agree to our investigators view of the complaint saying the sales documents from the time of sale made it clear that the system wouldn't be self-funding. They also submitted details of the credit checks they carried out to ensure the loan was affordable.

As the complaint couldn't be resolved by our investigator, it was passed to an ombudsman.

In my provisional decision of 13 November 2023, I set out why I was minded to not upholding the complaint. I invited both parties to provide any further submissions they may wish to make before I reached a final decision. Allium agreed with my provisional decision.

Mrs A didn't agree for the following reasons:

- Mrs A reiterated that the household income of £50,000 in the loan application form was substantially overstated, and if the supplier is allowed to get away with this, then there's nothing to deter them from doing it again.
- While she has maintained payments, she struggled with other payments and had to borrow to cover her costs.
- The supplier lied about their household income and also lied about covering all their electricity bills.
- Additionally, she adds she can't provide evidence of the representations the supplier made, as he didn't leave the documentation he showed her during the sales meeting.

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 my provisional decision I explained the following:

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

As Mrs A paid for the system with a fixed sum loan agreement, Allium agrees that section 75 applies to this transaction. This means that Mrs A could claim against Allium, the creditor, for any misrepresentation or breach of contract by the supplier in the same way she 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 Mrs A and the supplier, are deemed to have been conducted by the supplier as an agent of Allium.

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, currently, I do not uphold this complaint.

Documents from the time of sale

I'm satisfied that Mrs A was provided with the sales documents, and it seems likely that she would've seen these at the time of sale, as she has signed the documents. This includes a sales quotation document as well as a credit agreement.

Mrs A says she was led to believe the system would be self-funding and that the benefit received from the system would cover the cost of the finance. The quote provided by the supplier formed the basis of the sale, including the meeting where this was discussed, and has been signed by Mrs A.

*There is a section setting out the estimated benefits Mrs A's system will provide over the lifetime of the system. This shows that the first-year benefit is **£273.93**.*

Solar savings		Export Tariff	Total income savings	* Acc. grand total	Est. average monthly return
Yr	Elec. savings				
1	£237.10	£36.82	£273.93	£273.93	£22.83

Separately, Mrs A signed a credit agreement which sets out that the cash price of the system is £8,699, the total cost (including interest of £4,441.60), is £13,440.60. The term of the loan is 120 months (i.e. 10 years), and the monthly payments are £111.18.

So, I think the documents made it clear what benefit Mrs A is likely to receive from the system as well as what the system would likely cost. And the documents from the time of sale usually reflect the nature of the discussions that consumers had with the supplier at the time of sale.

I think it's clear that the first-year benefit of £273.93 will only cover just over two monthly payments. I therefore think it's clear from the documents that the solar panels would not be self-funding but instead, it's apparent that there would likely be a significant shortfall between the annual benefit and cost.

The table setting out the overall estimated benefit during the lifetime of the system shows it wouldn't be until year 24 that the total benefits would exceed the total cost of the system (including finance charges).

Panel degradation	Solar savings			Total income savings	* Acc. grand total	Est. average monthly return	Ann. ROI
	Yr	Elec. savings	Export Tariff				
100.00%	1	£237.10	£36.82	£273.93	£273.93	£22.83	3.15%
99.48%	2	£252.48	£37.77	£290.25	£564.17	£24.19	3.34%
98.96%	3	£268.84	£38.75	£307.59	£871.76	£25.63	3.54%
98.44%	4	£286.28	£39.74	£326.02	£1,197.78	£27.17	3.75%
97.92%	5	£304.84	£40.77	£345.60	£1,543.39	£28.80	3.97%
97.40%	6	£324.60	£41.82	£366.42	£1,909.81	£30.53	4.21%
96.88%	7	£345.64	£42.90	£388.54	£2,298.35	£32.38	4.47%
96.36%	8	£368.05	£44.00	£412.06	£2,710.41	£34.34	4.74%
95.84%	9	£391.92	£45.14	£437.05	£3,147.46	£36.42	5.02%
95.32%	10	£417.33	£46.30	£463.63	£3,611.09	£38.64	5.33%
94.80%	11	£444.38	£47.50	£491.88	£4,102.97	£40.99	5.65%
94.28%	12	£473.19	£48.72	£521.91	£4,624.88	£43.49	6.00%
93.76%	13	£503.87	£49.98	£553.85	£5,178.73	£46.15	6.37%
93.24%	14	£536.54	£51.26	£587.81	£5,766.53	£48.98	6.76%
92.72%	15	£571.33	£52.59	£623.91	£6,390.45	£51.99	7.17%
92.20%	16	£608.37	£53.94	£662.31	£7,052.76	£55.19	7.61%
91.68%	17	£647.81	£55.33	£703.14	£7,755.90	£58.60	8.08%
91.16%	18	£689.81	£56.76	£746.57	£8,502.47	£62.21	8.58%
90.64%	19	£734.53	£58.22	£792.76	£9,295.23	£66.06	9.11%
90.12%	20	£782.16	£59.72	£841.88	£10,137.11	£70.16	9.68%
89.60%	21	£832.87	£61.26	£894.13	£11,031.24	£74.51	10.28%
89.08%	22	£886.86	£62.84	£949.71	£11,980.94	£79.14	10.92%
88.56%	23	£944.36	£64.46	£1,008.83	£12,989.77	£84.07	11.60%
88.04%	24	£1,005.59	£66.12	£1,071.71	£14,061.48	£89.31	12.32%
87.52%	25	£1,070.79	£67.83	£1,138.62	£15,200.10	£94.88	13.09%
87.00%	26	£1,140.21	£69.58	£1,209.79	£16,409.89	£100.82	13.91%
86.48%	27	£1,214.13	£71.37	£1,285.51	£17,695.39	£107.13	14.78%
85.96%	28	£1,292.85	£73.21	£1,366.06	£19,061.46	£113.84	15.70%
85.44%	29	£1,376.67	£75.10	£1,451.77	£20,513.23	£120.98	16.69%
84.92%	30	£1,465.93	£77.04	£1,542.96	£22,056.19	£128.58	17.74%
Totals		£20,419.33	£1,636.86	£22,056.19	£22,056.19	Ave. ROI:	8.45%

* Earnings are made in form of credit paid against your bill

I've gone on to consider the wider circumstances of the case including Mrs A's testimony to see if there is sufficient evidence (despite the above evidence) to make me satisfied that Mrs A was nevertheless mis-led in the way she says she was. Mrs A says during the lockdown in 2020 (around the time of sale), her husband had been unable to work, and whilst he received some income from being furloughed, didn't have his full income covered. She said given her financial situation at the time, if she hadn't been led to believe that the system was self-funding, she wouldn't have taken on the loan. I understand our investigator found Mrs A's testimony to be persuasive.

Affordability checks

Mrs A has sent in her bank statements showing what her income was. This loan was in the sole name of Mrs A, and while I've thought about her comments regarding her family's overall financial situation, as the loan was in her sole name, any affordability assessments and credit checks done by Allium at the time would have focussed mainly on her financial situation.

I can see that the loan application records Mrs A's monthly income as £1,561.84 and also notes her mortgage payment of around £400. Mrs A's bank statements show that combined with her salary, benefit payment and a regular payment from her husband, the monthly credits coming into her account is slightly more than this. Her mortgage is £422 and paid from this account. Her account seems to be managed well and runs with a positive balance.

Allium says it runs an income check using a system that checks if there's any evidence that income declared is untrue by checking for any adverse information for example – and her check came back clear indicating the loan was affordable. Additionally, Allium says the payments on the loan have been maintained with no arrears since then.

The loan application appears to suggest their household income is around £50,000 but given her husband's financial situation at the time, I understand Mrs A's concern that her household income was unlikely to have been that much at the time. She feels strongly the supplier mis-led Allium about the true nature of her financial situation at the time.

I fully appreciate that, during the lockdown, many families suffered a change to their income, but affordability simply checks whether a consumer (Mrs A), can afford the loan payments

and the loan is granted on that basis. And it looks like Mrs A was able to afford the payments and has managed her loan account well since then. So, I don't think the loan was unaffordable.

Satisfaction call

Allium carried out a satisfaction call shortly after the sale and Mrs A raised some concerns about the manner in which the system was sold to her. Her unhappiness stemmed from issues such as an optional extra not working until she changed internet providers and the length of time the scaffolding was up. She said she wanted the panels for a number of reasons including environmental reasons and wanting to generate green energy. She says she thought there may be some green deal benefits to be gained although accepts the supplier didn't mention anything about green deal.

Mrs A also appeared to understand she would be paying around £4,000 in interest, and her monthly cost was over £100 a month. She seemed to be unhappy with the overall sales experience although didn't raise any concerns over how the finance itself was arranged through Allium.

Assessment of case

I have thought carefully about Mrs A's testimony and concerns. But it seems to me that while some of the application information may have been overstated (such as the household income) the loan in reality was affordable, and the payments have been maintained well since then.

The sales documents indicate the benefit and costs were made clear to Mrs A and show a significant shortfall between the cost and benefit. If Mrs A had been told something different, on being asked to sign these documents, I would have expected her to have questioned what she had been told. I've seen no evidence that she did, so I think that suggests that the document most likely did not contradict Mrs A's understanding, at that time.

Mrs A also seems to have been aware of the costs despite not having the credit agreement to hand and raised no concerns about the system being self-funding or affordability on the call – although I accept the overall sense of the call was that she was dissatisfied with her sales experience.

Overall, while I've carefully considered Mrs A's testimony, I still find the documents from the time of sale to be more persuasive in terms of what information she was likely given at the time of sale. I think it would have been clear to Mrs A that the system wouldn't be self-funding, and that it would take a significant number of years before she could recoup her initial costs. I'm also satisfied that she was aware of the costs associated with the loan as well as the benefits. It seems to me that she was likely aware of her own financial circumstances and wanted the system for a number of reasons including wanting to produce green energy as well as receiving some financial benefit.

So, on balance, I don't think there's sufficient evidence in this case that the system was misrepresented to Mrs A, or that she mainly bought the system for that reason.

I've also considered the performance of the system and whether this is in line with the contract between the supplier and Mrs A. The MCS certificate sets out that the system is expected to produce 2678 kWh a year. And Mrs A's most recent meter reading shows her system, on average, has generated 2850.35 kWh annually. This is slightly more than estimated by the supplier at the point of sale, so I'm satisfied that the system is performing as expected and as it was designed to.

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 Mrs A to enter into the contract for the system, and I have found no other reason to uphold this complaint. So overall, I'm satisfied that Allium did not act unreasonably or unfairly when declining the claim.

I've read everything Mrs A has submitted and carefully reconsidered her complaint. I'm very sorry Mrs A is so disappointed with my findings and understand she believes the supplier misled her during the sale – I appreciate her strength of feeling regarding this matter.

But as I explained in my provisional decision, even if the household income of £50,000 was overstated, as the loan is in Mrs A's sole name – affordability checks are limited to ensuring the loan payments are affordable to Mrs A and it looks like it was. This service has no punitive powers and is not the regulator – the Financial Conduct Authority is the regulator that can take punitive actions against financial business. Our role is to assess whether any errors/misrepresentations have occurred that have caused a consumer loss – and then to order businesses to put that right.

As I've found the documents given overall made it clear the system wouldn't be self-funding, and the loan was, in any event, affordable, I don't think Allium needs to do anything to put matters right for Mrs A.

Unfortunately, I understand Mrs A says she was shown documents to the contrary during the sale, but these were not left with her. I appreciate Mrs A cannot submit evidence that she doesn't have. But I have to complete my assessment of her complaint based on the available evidence. The sales documents submitted by Allium and referred to above, make it clear the system wouldn't be self-funding – and the quote and credit agreement were signed by her.

Having reviewed this complaint again, I find no reason to depart from my original findings as set out in my provisional decision. I'm still satisfied that there were no untrue statements of fact made by the supplier that induced Mrs A to enter into the contract for the system, and I have found no other reason to uphold this complaint. So overall, I'm satisfied that Allium did not act unreasonably or unfairly when declining the claim.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 29 December 2023.

Asma Begum
Ombudsman