

The complaint

Mr C complains that Allium Money Limited (“Allium”), has rejected the claim he made under sections 75 and 140 and of the Consumer Credit Act 1974 (“the Act”) in relation to a solar panel system and battery (“the system”).

What happened

In October 2019, Mr C bought the system from a supplier (which I’ll call “P”) using a fixed sum loan agreement with Allium, which was repayable over 10 years.

In March 2022, Mr C engaged a claims management company (“the CMC”), which sent Allium a letter of claim alleging that P had misrepresented the system, breached its contract with Mr C, and that Mr C’s relationship with Allium was unfair on him because:

- There were misleading figures in the quote – specifically the “putting it all together” table, which had the following issues:
 - The voltage optimiser savings were too high, which was not supported by industry reports that were available at the time.
 - The electricity savings were too high – they should’ve been based on a self-consumption rate of 50% (the industry standard), rather than the 75% self-consumption rate that was used.
 - The cost of credit was missing from the table, distorting the return on investment to make the system more attractive.
- The supplier had a predilection for unscrupulous behaviour illustrated by some other cases where inflation data had fraudulently or deliberately been manipulated.

Mr C also mentioned in his witness statement that he was told the system would pay for itself due to the benefits received from the system. So, I’ve also considered whether that was likely.

Allium did not uphold the claim and the CMC referred a complaint to the Financial Ombudsman Service about this. Our investigator considered the matter and didn’t think the complaint should be upheld. The CMC disagreed saying they didn’t feel the complaint had been properly addressed but did not explain this any further.

Because the investigator was unable to resolve the complaint, the case was passed to me.

In my provisional decision of 9 June 2023, I set out why I was minded to not uphold the complaint. I invited both parties to provide any further submissions they may wish to make before I reached a final decision. Neither Allium nor Mr C made any further comments.

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:

Relevant considerations

The CMC has made the claim under sections 75 and 140 of the Act. So, I have considered these sections in particular, as well as other relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time. I have read all of the CMC's and Allium's submissions and taken all of these into account when making my decision.

The quote

I'm satisfied that the quote was provided to Mr C during the sales meeting. It was signed by him at that time. So, I think the quote provides important evidence of what was likely discussed before Mr C agreed to the purchase.

The basic price and overall cost of the system

The basic (or cash) price of the system was set out clearly in the quote and the credit agreement as £11,631. However, the overall cost to Mr C was more, due to him paying for the system using an interest-bearing loan.

The quote showed several repayment options, including one over 120 months, with payments of £149.21 per month. This was 12p per month more than the actual amount on the credit agreement. But I think Mr C would've understood from the quote roughly how much the loan would cost per month.

The credit agreement clearly sets out that the loan was repayable through monthly payments of £149.09. It shows the total amount payable would be £17,989.18 including the £100 deposit. So, I think that the monthly and total overall cost that Mr C would pay for the system was made clear to him when he agreed to buy it.

The voltage optimizer estimates

The CMC has suggested the estimated voltage optimiser savings were too high, given various reports that were available at the time. But as explained by P, Mr C did not buy a voltage optimiser and the quote didn't include an estimate for this extra at all.

Allegation – The electricity savings were too high – they should've been based on a self-consumption rate of 50% (the industry standard), rather than the 75% self-consumption rate that was used

To calculate the savings from the solar panels, P says it used a self-consumption rate of 75%. Self-consumption rate is the proportion of electricity generated by the solar panels that P assumed that Mr C could use himself, rather than exporting it to the grid. My understanding is that P tailored the self-consumption rate based on what it knew about the customer and how he used electricity.

The CMC has argued that P should've used the "industry standard" self-consumption rate of 50% when calculating the savings. But I don't think it was unreasonable for P to tailor the self-consumption rate based on the information available to it. And I have not seen sufficient evidence to persuade me that the self-consumption rate used by P was unreasonable in this instance.

I understand P's methods were checked by an industry body before P started using them, and no objection to P's methods was raised at that time. So, I think that, for the time when the quote was prepared, I can't reasonably conclude that the self-consumption rate was unreasonable.

The electricity savings from the solar panels were based on reasonable assumptions about the amount of electricity generated by the system and the self-consumption rate. So, I don't think those savings estimates were a misrepresentation. That remains the case even if the savings have not in fact been as high as estimated.

The savings will be dependent upon how electricity is used in the home and that is beyond P's control. The quote also included the following clarification in the section about what Mr C will earn and save and says – "Depending on your usage ... the electricity savings will vary". so, I don't think the estimated savings were presented as being guaranteed, nor do I think they were a contractual term.

Allegation - the cost of credit was missing from the "putting it all together" table, distorting the return on investment to make the system appear more attractive

Mr C's quote didn't have a "putting it all together" section – but did have a section headed "Your Savings Summary". The section may have been clearer if the table had included the cost of credit. However, it did repeatedly specify that these figures did not include finance charges and were for cash purchases only. I must also consider the sale as a whole, not just one table in one of the documents that was provided at the time of sale. P offered consumers the option to purchase the system without finance – so some sections include finance, and some do not – but this is clearly labelled. Overall, I'm satisfied that Mr C knew what he was paying for the system, including the cost of credit. This was shown on the credit agreement. So, he could compare this to the estimated benefits before deciding to buy the system.

In addition to this, the "repayments" table did incorporate the cost of credit into its illustration of the benefits of the system. It showed the annual benefit would not exceed the annual loan repayments during the loan term.

The "what will you earn and save per year?" table also showed it would be about 25 years before the overall benefits of the system exceeded the total amount payable under the loan agreement.

Allegation - the supplier had a predilection for unscrupulous behaviour illustrated by some other cases where inflation data had fraudulently or deliberately been manipulated

The CMC has pointed to some cases it had seen against P where the inflation data used did not match the underlying inflation data it referred to. I have not seen this in a significant number of cases and therefore this does not strike me as a systemic issue which would lead me to think that P misled customers in every case.

It appears likely to have been a result of human error rather than fraudulently or deliberately done to mislead. Some of those errors resulted in a lower inflation rate being used – thereby making the potential benefits of the system appear less than would've been the case if no error had occurred, which would make the system less attractive to customers, not more.

In this case, it appears there is no suggestion that the inflation rate used didn't match the underlying data the supplier referred to. So, there was no detriment to Mr C in this case. And the quote warned that inflation may be higher or lower than the rate used.

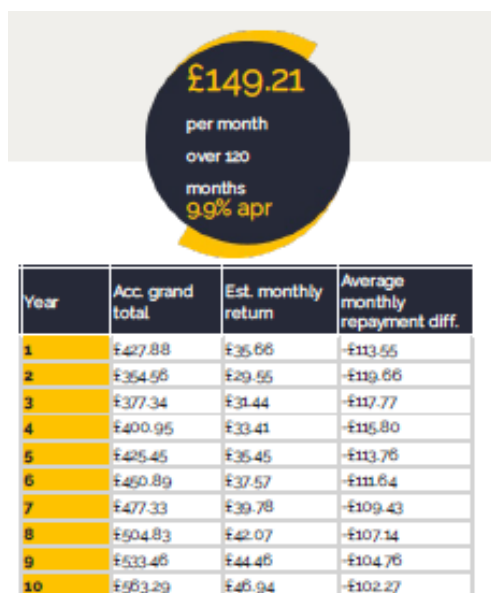
I think P's method for calculating an assumed inflation rate was reasonable. And I don't think it was a breach of contract or misrepresentation just because actual inflation has not matched P's assumption.

I also don't think P did anything wrong by using data from the Office of National Statistics.

Allegation – Mr C was told the solar panels would pay for themselves.

Mr C has not specified how this was to be achieved, i.e. whether he was told that the benefits would be higher than the costs from the outset, or whether he expected the benefits to outweigh the costs over a specified period of time such as the loan term.

I'm not persuaded that it is likely that Mr C was told the solar panels would pay for themselves within the loan term or from the outset. The "repayments" table mentioned above directly compared the benefits of the system with the illustrative monthly loan repayments. This showed that the benefits of the system would be less than the loan repayments throughout the loan term.



The "what will you earn and save per year?" table showed the total benefits would not exceed the total payable under the credit agreement until about 25 years – which is 15 years after the loan would've been repaid. And would've allowed Mr C to compare his loan repayments with the annual benefit shown for each year.

Panel degradation	Yr	Elec. savings	Energy saving optional extras *	Total income savings	* Acc. grand total	Est. monthly return	Ann. ROI
			Social Energy				
100.00%	1	£216.32	£211.56	£427.88	£427.88	£35.66	3.68%
99.60%	2	£231.55	£123.01	£354.56	£782.44	£29.55	3.05%
99.20%	3	£247.85	£129.49	£377.34	£1,159.78	£31.44	3.24%
98.80%	4	£265.30	£135.65	£400.95	£1,560.73	£33.41	3.45%
98.40%	5	£283.98	£141.47	£425.45	£1,986.18	£35.45	3.66%
98.00%	6	£303.97	£146.91	£450.89	£2,437.06	£37.57	3.88%
97.60%	7	£325.37	£151.96	£477.33	£2,914.39	£39.78	4.10%
97.20%	8	£348.28	£156.55	£504.83	£3,439.22	£42.07	4.34%
96.80%	9	£372.80	£160.67	£533.46	£3,952.68	£44.46	4.59%
96.40%	10	£399.04	£164.25	£563.29	£4,515.97	£46.94	4.84%
96.00%	11	£427.13	£167.26	£594.40	£5,130.37	£49.53	5.11%
95.60%	12	£457.20	£169.65	£626.85	£5,737.22	£52.24	5.39%
95.20%	13	£489.39	£171.36	£660.75	£6,397.97	£55.06	5.68%
94.80%	14	£523.84	£172.32	£696.17	£7,094.14	£58.01	5.99%
94.40%	15	£560.72	£172.48	£733.20	£7,827.34	£61.10	6.30%
94.00%	16	£600.20	£220.97	£821.17	£8,648.51	£68.43	7.06%
93.60%	17	£642.45	£222.76	£865.21	£9,513.72	£72.10	7.44%
93.20%	18	£687.68	£223.76	£911.44	£10,425.16	£75.95	7.84%
92.80%	19	£736.09	£223.88	£959.98	£11,385.13	£80.00	8.25%
92.40%	20	£787.91	£223.06	£1,010.98	£12,396.11	£84.25	8.69%
92.00%	21	£843.38	£221.21	£1,064.59	£13,450.70	£88.72	9.15%
91.60%	22	£902.76	£218.23	£1,120.98	£14,581.69	£93.42	9.64%
91.20%	23	£966.31	£214.02	£1,180.33	£15,762.01	£98.36	10.15%
90.80%	24	£1,034.34	£208.46	£1,242.80	£17,004.81	£103.57	10.69%
90.40%	25	£1,107.15	£201.45	£1,308.60	£18,313.42	£109.05	11.25%
90.00%	26	£1,185.10	£192.84	£1,377.94	£19,691.35	£114.83	11.85%
89.60%	27	£1,268.53	£182.49	£1,451.02	£21,142.38	£120.92	12.48%
89.20%	28	£1,357.83	£170.26	£1,528.09	£22,670.47	£127.34	13.14%
88.80%	29	£1,453.43	£155.97	£1,609.40	£24,279.87	£134.12	13.84%
88.40%	30	£1,555.75	£139.44	£1,695.19	£25,975.06	£141.27	14.57%

The total first year benefit of £427.88, was also significantly less than the annual loan repayments which was £1,789.08 (£149.09 x 12).

Yr	Elec. savings	Energy saving optional extras *	
		Social Energy	Total income savings
1	£216.32	£211.56	£427.88

So, I think it would have been clear to Mr C that the benefits received from the solar panels would not cover the monthly loan repayments from the system from the outset. I think it was also clear that the benefits would be less than the cost of the system throughout the duration of the loan.

Summary

I have not seen evidence that persuades me that P sold the system in a way that was not fair or clear, or in a way that was misleading. Or that undue pressure was applied to Mr C. I think the information provided to Mr C before he agreed to the purchase showed the cost and expected benefits of the system based on reasonable assumptions. The expected benefits were set out over 30 years, with warnings that those benefits were not guaranteed. I think it is likely that this was discussed with Mr C before he agreed to the purchase.

In summary, my findings are that:

- *There was no misrepresentation or breach of contract on the part of P. As such, I don't think Allium would have any liability under section 75 of the Act.*
- *I think it is unlikely that a court would find that there was an unfair relationship between Allium and Mr C due to the way P sold the system to him.*

In the absence of any new points for me to consider, I find no reason to depart from my original findings as set out in my provisional decision. So, for the reasons explained above, I still don't think that there were any misrepresentations or breach of contract on the part of P. So, I don't think Allium acted unreasonably or unfairly when declining the claim. I also think it is unlikely that a court would find that there was an unfair relationship between Allium and Mr C. With this in mind, I do not uphold this complaint.

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 Mr C to accept or reject my decision before 3 August 2023.

Asma Begum

Ombudsman