

## **The complaint**

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

## **What happened**

Mrs R bought a solar panel ("the system") for her 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, Mrs R alleges that the supplier misled Mrs R into believing that the panels would be self-funding.

Mrs R's complaint was considered by one of our investigators. She thought that the documents from the time of sale (which Mrs R 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 Mrs R says she was led to believe. So, the investigator did not think a misrepresentation had taken place.

Mrs R disagreed. She said (through her representatives):

- That the sale was conducted based on verbal representations made by the supplier and Mrs R should not have to check the paperwork for contradictions between what was said and what was written in the documentation.
- That there was no evidence the salesperson went through the paperwork with Mrs R, and she did not get a chance to independently review the paperwork.
- There were two quotation documents, but while the second one was sent to Mrs R, she did not see or sign it and was unaware why the two documents are different.
- She didn't receive a copy of the paperwork so was not aware of the discrepancies.

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 Mrs R paid for the system with a fixed sum loan agreement, Ikano agrees that section 75 applies to this transaction. This means that Mrs R could claim against Ikano, 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 R 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.

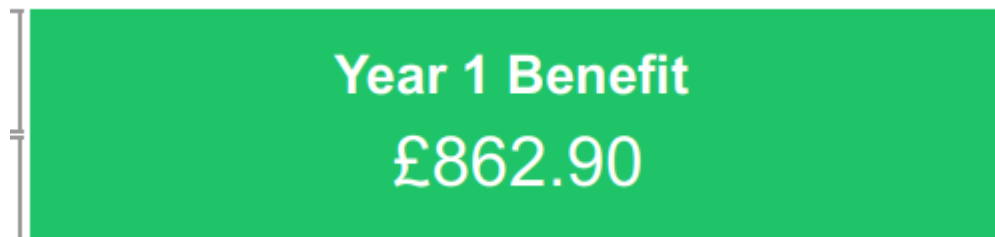
For the purpose of this decision, I've used the definition of a misrepresentation as an untrue statement of fact or law made by one party (or his agent) to a second party which induces that second party to enter the contract, thereby causing them loss.

Having carefully considered everything provided, for broadly the same reasons as those explained by the investigator, I do not uphold this complaint.

Both Ikano and Mrs R have provided us with a range of documents from the time of sale, and Mrs R has also provided her testimony about what she recalls from the time of sale. I'm satisfied that Mrs R would've seen these at the time of sale, as she has signed the documents – so I've considered them as well as her testimony.

Mrs R's fixed sum loan agreement sets out the total cost of the system (£12,000), as well as the total cost including finance charges (£17,237.40), the term of her loan 120 months (i.e. 10 years), and her monthly payment of £143.65. This was signed by Mrs R on the 27 June 2019. I also think it's unlikely that Mrs R would agree to take out a loan for over £17,000 without considering the details related to her finance agreement such as the term of the loan etc.

Her quote set out her first-year benefit of £862.90 – this was signed on 2 July 2019 which I understand was signed during a second visit by the supplier to survey Mrs R's roof.



But on the 2 July 2019, Mrs R also signed a validation sheet which again repeated her finance costs including the cash price, the total cost including finance charges, the term of her loan and monthly payment.

Mrs R has signed each one of the documents mentioned above, albeit over two meetings. But I think it would have been clear to her what the system cost, and what benefit the system was likely to produce in year one. The year one benefit is not hidden away but clearly displayed. Without doing any calculations, I think it's apparent to repay around £17,000 over 10 years, Mrs R would need the system benefit to be at least £1,700 a year to cover the full cost of the system. This is almost double the first-year benefit set out for her in her quote. And of course, 12 payments of £143 is significantly more than £862.

Sales documentation usually reflect the discussions that the sales advisors had with consumers during the sale. And while I understand the loan agreement was signed on a different day to the quote, the validation sheet and the quote were signed on the same day, so Mrs R would have seen the finance charges (for a second time) at the same time as her quote.

Overall, I think it's clear that the solar panels would not be self-funding in the way Mrs R says she was told they would be. If Mrs R had been told something different during the original meeting, on being asked to sign the documents on 2 July 2019, 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 R's understanding, at that time.

I understand Mrs R was sent a second quote on 9 July 2019 – which she didn't sign and she's unaware why the figures are slightly different. As Mrs R says she didn't see this document when she signed the other documents, and agreed to purchase the system, I don't think she's relied on it. And even if she did, on this document the first-year benefit is only marginally different at £874.39. This would also similarly show quite clearly that the system would not be self-funding.

While I've carefully considered Mrs R's testimony, I 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. 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. Ikano has confirmed that it paid no 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

Mrs R says that sufficient credit checks weren't carried out and she informed Ikano that her financial circumstances might change in the near future. She doesn't feel Ikano fully assessed her affordability. Ikano says it did carry out sufficient checks and also went through her income and expenditure with her. If she'd informed them of any future plans than it would have taken this into account before agreeing to lend to her – but its notes show no discussion took place. It also looks like Mrs R has maintained her payments following the sale. So, I'm satisfied the loan was affordable at the time it was granted to her.

Mrs R also says she suffered some problems following the installation of the system with her heating control, and the removal of scaffolding – but it looks like these issues were resolved by the supplier without any additional cost.

Mrs R was also disappointed to find out that a referral commission she was paid was only £250 rather than £500 the sales advisor told her about. The sales advisor was unaware the commission levels were different depending on whether systems were purchased with or without finance. I understand that this must've been disappointing for Mrs R, but even if the sales advisor informed her of the correct amounts, Mrs R would only have been entitled to £250 which she received. So, I don't think there's anything Ikano needs to do about this now.

Mrs R also confirmed while she was quoted for 15 panels, the suppliers were able to fit 16 panels on her roof which they confirmed to her during the roof survey. But, as set out by our investigator, having an extra panel has not caused Mrs R any financial loss and it looks like she was aware that she'd be getting an extra panel before it was installed. So, I don't think Ikano needs to do anything about this now.

So, while I've thought carefully about these concerns, I don't uphold her 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 Mrs R 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 Mrs R to accept or reject my decision before 20 October 2023.

Asma Begum  
**Ombudsman**