

The complaint

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

Mr M previously had a representative helping him with his complaint, but I understand that representative is no longer acting for him.

What happened

Mr M bought a solar panel system ("the system") for his home in September 2018. 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 M alleges that the supplier misled Mr M into believing that the panels would be self-funding.

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

Mr M (through his former representative) disagreed for the following reasons:

- Mr M reiterated that he was told the system would be self-funding.
- That he shouldn't be expected to look for contradictions between what he was being verbally told and what is contained in the documents.
- There was no evidence Mr M had been taken through the sales documents and no detailed discussion took place.
- He would not have purchased the system had he known that his outgoings would increase.

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 M paid for the system with a fixed sum loan agreement, Ikano agrees that section 75 applies to this transaction. This means that Mr M 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 M 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 the same reasons as those explained by the investigator, I do not uphold this complaint.

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

There is a one-page document that sets out the estimated benefits provided by the solar panel system. And Mr M has signed this document on the same day as the credit agreement which set out the cost details. None of these figures are hidden away in small print, but are, in my view clearly visible.

Total Estimate Year 1 Benefit = £293.76 to 401.24

I think it's clear that Mr M's total first year benefit is between £293.76 and £401.24. Mr M signed and dated the document immediately below the section where the total estimated year one benefit is set out.

On the same day, Mr M also signed the credit agreement which set out the cash price of £6,795. It went on to show that Mr M's monthly payment was £91.63, the total amount payable was £10,994.03, as well as the term of the loan which was 120-months (i.e., 10-years).

I've thought about Mr M's comments that he doesn't recall being taken through the performance estimate document, and no detailed discussion took place. But overall, I'm satisfied he saw these documents at the time of sale, as he signed them. And the figures above are clearly visible even on a quick glimpse. I also think it's unlikely that Mr M saw and signed these documents and went ahead with the purchase without considering the basic details of the benefit and cost.

Usually, the sales documentation reflects the nature of the discussions that took place at the time of sale, and I think that's more likely to be the case here. So, I think it's likely the supplier discussed the estimated benefit the system would likely produce as well as clearly setting out the cost. I also think it's clear that to repay a loan for £6,795 over 10 years, Mr M would need at least £679.5 to meet the annual repayments of the loan (without even including interest and charges). And the maximum first year benefit of £401.24 falls significantly short of that. I also think it's apparent that 12 payments of £91, amounts to more than £401.24.

Overall, I think it's more likely that 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. If Mr M had been told something different, on being asked to sign these documents, 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 documents most likely did not contradict Mr M's understanding, at that time.

While I've carefully considered Mr M'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.

Mr M has made some additional points regarding whether Ikano carried out appropriate credit checks and whether it ensured pressure wasn't applied. But as explained by Ikano, Mr M was provided with a cooling off period which I would have expected him to utilise if he didn't want the system but had been pressured into signing the agreement on the day. Pressure can also be subjective, and Mr M hasn't provided any detail as to why he feels he was subjected to undue pressure. Additionally, Ikano set out the credit checks it carried out, and Mr M's transaction history showed he maintained the payments following the loan being granted. I therefore haven't seen anything that suggests the loan was unaffordable. So, these points don't change my view of the complaint.

I've also gone on to consider whether a court may conclude that there existed an unfair relationship under section 140 of 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. As explained by Ikano in its response to Mr M's claim, it 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.

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 M 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 acted unfairly by declining Mr M's claim.

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 M to accept or reject my decision before 5 February 2024.

Asma Begum

Ombudsman