

The complaint

Ms L complains about Omni Capital Retail Finance Limited's response to a claim she made under sections 75 and 140 of the Consumer Credit Act.

What happened

In 2018, Ms L purchased a solar panel system from a supplier using a loan from Omni. The loan was repayable over ten years with repayments of £104.66 per month.

In 2022, a claims management company ("CMC") submitted a claim to Omni on Ms L's behalf. This alleged that the system was misrepresented by the supplier and that Omni's relationship with Ms L was unfair on her because:

- She was told the system would pay for itself because the savings on her bills over the term of the loan would meet or exceed her loan repayments.
- She was told her electricity bills would reduce to almost nothing.
- No credit assessment took place.
- Omni paid the supplier a commission, but Ms L wasn't told about this.

Omni rejected the claim. Unhappy with this, Ms L made a complaint and asked the Financial Ombudsman Service to look at what happened.

Our investigator did not think the complaint should be upheld. Ms L remains unhappy, so I've been asked to make a decision. The CMC has informed us it is no longer representing Ms L.

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.

Section 75 means that Omni can be liable for a misrepresentation or breach of contract by the supplier. Section 140 means a court could find the relationship between Omni and Ms L was unfair on her. So, I've taken this into account when deciding whether Omni's response to Ms L's claim and complaint was reasonable.

Having done so, I've decided not to uphold this complaint.

The documents provided at the time of sale make clear the total cost of the system including interest and charges relating to the loan, and that the monthly loan repayment was £104.66. This is shown on the loan agreement and validation sheet which Ms L signed.

The sales contract and contract variation form also clearly show the estimated benefits of the system in the first year as being up to £351.10 and £232.03 respectively. Ms L also signed these documents.

So, the supplier provided documents showing the cost to Ms L was £104.66 per month and the annual benefit in the first year was up to £351.10. With this in mind, I do not think that

Ms L's recollection is detailed and persuasive enough for me to conclude that the salesperson would've said the savings alone would cover the total loan repayments within ten years.

It makes no sense that the income would be omitted from the discussion when this was half of the total benefit. And there is nothing to suggest how it was persuasively explained that the benefits would increase sufficiently to cover the total loan repayments (given that £351 is much less than 12 monthly repayments of £1404.66).

Ms L says her electricity bills didn't reduce and she realised this within the first few months. However, it appears that she took no action to complain about this at the time, other than trying to call the supplier but they didn't answer. I would've expected her to pursue this more vigorously at the time if what happened was so different to what she was told by the supplier. I think that she didn't do so undermines what she has said and makes it harder for me to conclude that her recollection is accurate.

I'm also mindful of the inconsistency around what Ms L has said about the income from the Fee-In-Tariff. In the letter of claim it suggests Ms L was not aware of this possibility, but when she spoke to our investigator she said that she was aware the possibility and that she realised within a few months that this was not happening. That inconsistency makes it harder for me to rely on her recollection of what she was told.

I am also not persuaded that the relationship between Omni and Ms L is unfair on her. Omni has confirmed it paid no commission to the supplier in relation to Ms L's loan. So, there was no undisclosed commission that could make the relationship unfair. And I'm satisfied that Omni did carry out an assessment of Ms L's creditworthiness before accepting her loan application. It does not appear that decision was irresponsible of that the lending unaffordable for Ms L.

As such I do not think the alleged misrepresentation took place, nor do I think that a court would conclude that the relationship between Omni and Ms L was unfair on her.

If she has not signed up to it, Ms L may be able to benefit from the Smart Export Guarantee, which pays for electricity exported to the grid. She can speak to her electricity supplier for more information about this or find more information on the Ofgem website.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 9 February 2024.

Phillip Lai-Fang
Ombudsman