

## **The complaint**

Mr H complains that Shawbrook Bank Limited rejected a claim he made under sections 75 and 140 of the Consumer Credit Act 1974 ("the Act")

## **What happened**

In 2018, Mr H purchased a solar panel system ("the system") from a supplier. He paid for this using a loan from Shawbrook, which was repayable over ten years.

In 2023, a claims management company ("CMC") made a claim to Shawbrook under sections 75 and 140 of the Act. This said that the system had been misrepresented by the supplier as being self-funding, in that the benefits of the system (savings and income) would cover the monthly loan repayments. And that has not happened.

The CMC said that Shawbrook was liable for the misrepresentation and that its relationship with Mr H was unfair on him because of this and because Mr H was not given the opportunity to thoroughly read through the documents before signing, as well as that Shawbrook did not carry out a credit assessment.

Shawbrook rejected the claim. It said that there had been no misrepresentation and its relationship with Mr H was not unfair on him. Mr H was unhappy with this, made a complaint about it and asked the Financial Ombudsman Service to look at what had happened.

Our investigator didn't think the complaint should be upheld. The CMC told us that Mr H disagreed with this. He felt that our investigator didn't take sufficient account of his recollection of what happened, that he wasn't taken through the quote, that the system is not providing the benefits shown in the quote, is not generating as much electricity as expected, and that the salesperson was probably paid commission on the sale. After this, the CMC said it was no longer representing Mr H in this matter.

Because the complaint was not resolved by our investigator, I have 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 deciding this complaint, I've considered whether there was a misrepresentation by the supplier and whether a court would be likely to find that Shawbrook's relationship with Mr H was unfair on him. Having done so, I'm not upholding this complaint.

Mr H signed the quote on 23 February 2018 and the loan agreement three days later. So, when signing the loan agreement, he had the benefit of the information in the quote. That included two tables that are relevant to his allegation of misrepresentation - which is that the supplier told Mr H the benefits of the system would cover the monthly loan repayments.

The first table sets out the estimated benefits of the system each year. At the end of ten

years (the term of the loan), the total estimated benefit is shown to be £7,831.91. This amount is less than the total amount Mr H had to pay under the loan agreement. This is shown clearly on the loan agreement as being £9,733.60 over 120 monthly repayments (including the deposit he paid). So, the quote indicates the benefits of the system will not cover the loan repayments during the term of the loan.

The second table directly compares the benefits with the loan repayments - comparing the monthly loan repayment with the average monthly benefit from the system each year of the loan. This shows that the benefits will not cover the loan repayments in years one to nine, and only just cover them in year ten.

Given the information shown on the quote, which makes it clear the monthly loan repayments will not be covered by the benefits of the system until year ten, I think it is unlikely that the alleged misrepresentation took place.

In addition to this, Mr H did not raise a claim or complaint about this issue until more than five years after the sale, even though it would've been clear quite soon after the sale that the benefits were not covering the monthly loan repayments. So, I'm not persuaded the misrepresentation took place.

I've also thought about whether a court would likely conclude the relationship between Shawbrook and Mr H was unfair on him under Section 140 of the Act. But I am not persuaded a court would reach this conclusion.

Mr H signed the credit agreement three days after he was given the quote. So, he had time to read through this and query anything that didn't match what he was told. Or indeed he could've cancelled the contract before or after signing the credit agreement. That the salesperson may have been paid commission on the sale is not unusual and does not mean the salesperson did something wrong when selling the system. I'm also not aware of any reason why Shawbrook ought to have refused the loan application.

I've thought about the comments Mr H made following our investigator's assessment, with regards the system not making the benefits shown in the quote and not generating the expected amount of electricity.

The estimated benefits shown in the quote appear to be based on reasonable assumptions about how much electricity the system is likely to generate, how much of that electricity Mr H is likely to use, and how much electricity prices and Feed-In Tariff unit rates might change over the years. I would not say there was a misrepresentation just because the actual benefits differed from the estimates. That may simply be due to how Mr H uses electricity in his home and inflation not matching the assumptions made at the time of sale.

I've also looked at the amount of electricity generated by the system. In the first two years this was in line with the amount shown in the quote. In the third year it was slightly less than that. If Mr H thinks the system has developed a fault then he should contact the supplier to ask it to inspect the system. The supplier's company name is shown on the quote at the bottom of page 14 – that company is still in business (albeit not using the same trading name). If Mr H gets nowhere with the supplier he could ask Shawbrook if it can help. But the system potentially developing a fault was not part of the original claim made to Shawbrook that led to this complaint. So, it is not for me to investigate that or reach any conclusions as part of this decision.

### **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 Mr H to accept or reject my decision before 6 February 2024.

Phillip Lai-Fang  
**Ombudsman**