

## **The complaint**

Mr W complains that Shawbrook Bank Limited (“Shawbrook”), has rejected the claim he made under sections 75 and 140 and of the Consumer Credit Act 1974 (“the Act”) in relation to solar panels, voltage optimiser, heating controller and boiler optimiser (which I will refer to as “the system”).

## **What happened**

In 2016, Mr W bought the system from a supplier (which I’ll call “P”) using a fixed sum loan agreement with Shawbrook Bank Limited, which was repayable over 15 years.

In 2022, Mr W engaged a claims management company (“the CMC”), which sent Shawbrook a letter of claim alleging that P had misrepresented the system, breached its contract with Mr W, and that Mr W’s relationship with Shawbrook 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.
  - There is insufficient evidence to support the claimed benefits of the heating controller and boiler optimiser.
  - 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.

The CMC also mentioned in the letter of claim that Mr W was told the system would pay for itself within the loan term. So, I’ve also considered whether it was likely that he was told that, and if so whether that was a misrepresentation.

Shawbrook did not respond to the claim until after the CMC referred a complaint about this to the Financial Ombudsman Service. After that Shawbrook issued a final response letter which rejected the claim but offered £200 compensation for the time it had taken to respond.

Our investigator considered the matter and didn’t think the complaint should be upheld. The CMC asked for a decision from an ombudsman but provided nothing further for me to consider. 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.

### 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 Shawbrook'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 W 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 W 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 £9,381.00. However, the overall cost to Mr W was more, due to him paying for the system using an interest-bearing loan.

The quote showed several repayment options, including one over 180 payments of £99.17 per month, which matches what is shown on the credit agreement. The credit agreement also shows the total amount payable would be £17,950.60 including the £100.00 advance payment. So, I think that the monthly and total overall cost that Mr W would pay for the system was made clear to him when he agreed to buy it.

#### Allegation – the voltage optimizer saving contradicts reports available at the time of sale and was beyond the range of reasonableness

The CMC has suggested the estimated voltage optimiser savings were too high, given various reports that were available at the time. However, I understand that P's method of calculating the savings was approved by an industry body, which is more qualified than I am to know if it was reasonable at that time.

How P calculated the savings was also explained in the quote, with reference to a specific report that informed its method of calculation. The quote also included the following statement alongside the figures for electricity savings from the voltage optimiser:

- "Savings are dependent on individual circumstances and may be higher or lower than those stated above and are based on the manufacturers own figures."

I think there were a number of reports which found that voltage optimisers could provide various levels of benefit. Considering those reports, I think that P's estimated voltage optimiser savings in this case are not outside of a reasonable range.

It appears to me that P estimated the benefit of the voltage optimiser based on what it knew about the product it was selling, Mr W's home and how he used electricity. I am not persuaded that P's estimate of the benefit of the voltage optimiser was unreasonable.

#### Allegation – there is insufficient evidence to support the claimed benefits of the heating controls and boiler optimiser

Overall, at the time of sale there appears to have been little evidence to support or contradict the claims made about the heating controls and boiler optimiser. But I'm mindful that 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 estimated benefits were unreasonable.

In addition to this, even if the estimated benefits were unreasonably high, given they made up a relatively small proportion of the overall benefit of the system (much less, for example, that the income and savings from the solar panels) I think it is unlikely these estimated benefits would've been enough to induce Mr W into the purchase.

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 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 W 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 electricity bill savings – "The amounts saved will depend on the amounts used." 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

The "putting it all together" table would have been clearer if the table had included the cost of credit. However, I must consider the sale as a whole, not just one table in one of the documents that was provided at the time of sale. Having done so, I'm satisfied that Mr W 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. The "estimated performance" table also showed it would be about 14 years before the overall benefits of the system were expected to exceed 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 between 10% and 30% of cases it had seen against P where the inflation data used did not match the underlying inflation data it referred to. 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 W 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.

Allegation – Mr W was told the savings and income from the system would pay for the loan within the 15-year loan term

It appears that Mr W was most likely told this based on the estimates made at the time of sale. The estimated performance over 30 years is shown in a table in the quote. And the accumulated grand total benefit is shown to exceed the total amount payable under the credit agreement (including the advance payment) by the fourteenth year.

However, I do not think this is a misrepresentation, because:

- It is an estimate of the benefits over a very long time.
- The assumptions used are set out in the quote.
- The assumptions used were reasonable at the time.
- The estimated benefits were not guaranteed.

### 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 W.

I think the information provided to Mr W 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 W 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 Shawbrook 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 Shawbrook and Mr W due to the way P sold the system to him.

**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 W to accept or reject my decision before 25 December 2023.

Phillip Lai-Fang  
**Ombudsman**