

## **The complaint**

Mr R complains about Ikano Bank AB (publ)'s response to a claim he made under sections 75 and 140 of the Consumer Credit Act 1974.

## **What happened**

In 2017, Mr R purchased a solar panel system from a supplier. He paid for it using a loan from Ikano that was repayable over 120 months.

In 2022, a claims management company ("CMC") made a claim to Ikano on Mr R's behalf. This alleged that the system had been misrepresented by the supplier as being self-funding – in that the income from Feed-In Tariff ("FIT") payments would cover the monthly loan repayments. And that Mr R's relationship with Ikano was unfair on him for various reasons.

Ikano rejected the claim. It said the sales documents made it clear the benefits of the system would not cover the monthly loan repayments. That the system was performing within expected tolerances. And that its relationship with Mr R was not unfair on him.

Unhappy with this, Mr R made a complaint and asked the Financial Ombudsman Service to look at what happened. Our investigator recommended the complaint be upheld due to misrepresentation by the supplier and the system not performing as expected. Ikano did not respond to this, so I've been asked to make a decision.

I issued a provisional decision explaining I was planning to uphold this complaint. Ikano acknowledged receipt of the provisional decision but did not provide anything more for me to consider. The CMC responded on behalf of Mr R to say that he agreed with my provisional 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.

### Misrepresentation

I do not think the alleged self-funding misrepresentation took place. The order form shows the estimated benefits of the system in the first year. The total, including savings and income from FIT, is shown to be between £272.34 and £367.17.

The purchase price of the system shown on the order form is £7,500.00. Mr R alleges he was told the FIT income alone would cover the monthly loan repayments. Given he agreed to a ten-year loan, that would mean repayments of £750 per year (even before interest and charges were added). So, the order form makes it clear that the income would not be anywhere near enough to cover the loan repayments.

With this in mind, I think it is unlikely that the supplier misrepresented the system in the way alleged. I note that the loan agreement was not signed until sometime after the order form.

But I do not think this is enough for me to conclude that the alleged misrepresentation took place. Mr R was given clear information about the benefits of the system. And I do not find Mr R's allegation to be sufficiently plausible and persuasive for me to uphold the complaint on this point.

### Performance of the system

Our investigator noted that the system was not performing as expected in terms of generating electricity.

I have looked at the FIT statements, and can see that the system, on average, has generated 2,398 kWh per year between 13 June 2017 and 6 June 2022. This is significantly less than the year one generation of 2,667 kWh shown on the order form and MCS certificate. It appears that the system has never achieved the amount of generation shown on the order form.

Ikano noted the underperformance when responding to the claim but dismissed this because it had limited information (just a meter reading, whereas the CMC has provided us with FIT statements and the MCS certificate) and assumed the shortfall was due to the period covered being less than a full year. The missing period was in the summer, so Ikano said the shortfall would've been made up and the system was not therefore underperforming. But that assumption has proved to be incorrect.

The system should generate at least 90% of the amount shown on the MCS certificate. But it appears that Mr R's system has never done so. I think this means there was a misrepresentation or breach of contract by the supplier, because the installed system is not capable of generating the amount of electricity shown in the order form and MCS certificate. Because of this I am upholding this complaint and explain below what Ikano should do to put things right.

Had Ikano followed up on this issue when responding to the claim, it would've had the opportunity to inspect the system to see if the performance issue was due to a fault. Ikano is aware of our approach in these circumstances, so I think it has missed the opportunity to investigate further.

### Unfair relationship

I am not persuaded that the relationship between Ikano and Mr R was unfair on him. I'm satisfied that Ikano carried out appropriate credit checks and provided the necessary pre-contract information including on cancellation. The credit agreement was clear, and I think Mr R would've understood this (including his right to withdraw from the contract within 14 days).

Ikano has confirmed that no commission was paid in relation to the credit agreement. And I don't think the information provided to Mr R was false or exaggerated such that an unfair relationship was created. So, I'm not persuaded that a court would conclude the relationship between Ikano and Mr R was unfair on him.

### **Putting things right**

To put things right, Ikano should:

- a) Calculate the expected benefit of the system over the original term of the loan, based on the information on the order form, making reasonable assumptions about RPI and

electricity unit price inflation using information that would've been available at the time of sale.

- b) Calculate the likely benefit from the system over the original term of the loan, bearing in mind the actual performance of the system to date where that information is available and reasonable assumptions where it is not (including for periods in the future).
- c) If the amount calculated in b) is less than that in a), pay Mr R the difference.
- d) Pay Mr R an additional £100 compensation in recognition of distress and inconvenience caused by Ikano rejecting the claim.

No compensatory interest should be added to the payment for the time Mr R has been without the money. Although part of the payment will be for benefits that Mr R would've received by now and has not had the benefit of, some of it covers future benefits. This means that Mr R will receive those benefits earlier than he would have if nothing had gone wrong. I think that balances things out in a fair and reasonable way, without overcomplicating the required calculations.

### **My final decision**

For the reasons I've explained, I uphold this complaint. Ikano Bank AB (publ) should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 19 February 2024.

Phillip Lai-Fang  
**Ombudsman**