

complaint

Mrs T has complained following a claim she made to Ikano Bank AB (publ) ("Ikano") under the Consumer Credit Act 1974 ("CCA").

background

In April 2017 Mrs T was introduced to a company called Green Energy Power Solutions Ltd ("GEPS") by family members. She met with a sales representative and agreed to the purchase and installation of an air source heat pump system. GEPS also arranged a loan for Mrs T with Ikano to pay for the system.

The system cost £10,800 and the loan payments were due to be around £140 per month over a 10-year term. This meant that Mrs T would repay a total of £16,811.95 including interest.

Mrs T says she was told that the system wouldn't cost her anything and would be self-funding. That is, the financial benefits she'd receive from the heat pump system would exceed the cost. But Mrs T feels the benefits were misrepresented as her energy bills are actually more expensive than before the installation and she says she wasn't aware a loan was being put in place.

Under s.75 CCA a finance provider can be responsible for any misrepresentation or breach of contract to the same extent as the supplier of goods.

Under s.56 CCA a finance provider can also be held responsible for what the supplier says as its agent when arranging the finance.

So, represented by the family member who had introduced her to GEPS, Mrs T raised a claim to Ikano under the CCA. It didn't uphold the claim and explained that GEPS had already responded to Mrs T's concerns about the loan agreement and paid compensation to resolve things.

Unhappy with Ikano's response, Mrs T referred to this Service for review. One of our investigators looked into things and recommended the complaint be upheld. She thought GEPS had likely considered Mrs T concerns about being unaware of the loan agreement, so only focussed her review on the misrepresentation that the system wouldn't cost her anything.

To put things right, the investigator's assessment recommended Ikano arrange for the removal of the heating system and cancel the loan. Mrs T's representative responded accepting the assessment. Ikano didn't respond.

As no agreement could be reached, the complaint has now been passed to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm of broadly the same conclusions as the investigator and consider the complaint should be upheld.

I should highlight that Ikano hasn't provided any representations in response to the investigator's assessment, but when reviewing this complaint I've considered all the evidence available afresh and impartially.

I note that in Ikano's original submissions to this Service it believed that GEPS had already dealt with Mrs T's complaint and paid compensation in respect of that. But I disagree. It's clear that Mrs T had raised concerns with GEPS at a very early stage after the installation of the heating pump. It seems she was essentially complaining about the fact a finance agreement had been set up for her without her knowledge. GEPS had dealt with that jointly with a parallel complaint raised by Mrs T's family member.

I've looked at the offer letter issued by GEPS and note it was not addressed to Mrs T directly, but rather to her family member offering a joint resolution to both their complaints. It's not entirely clear what issues GEPS had considered, or the basis for its offer of compensation. But I consider it likely to be about the existence of the loan, and not the wider misrepresentation that the system would pay for itself.

So, in this complaint I'm specifically focussing on Ikano's responsibility under the CCA for any misrepresentation made to Mrs T at the point of sale, and I consider that's a fair and reasonable approach for me to take.

Firstly, I've contemplated whether there was a misrepresentation made to Mrs T at all. She says that she was told she wouldn't have to spend anything for the system – so essentially that it would be self-funding. But she now says her bills have actually increased following the installation.

Promotional material from the point of sale is not available, but the investigator identified online advertising used by GEPS from around the same time. Any financial benefit from the air source heat pump would come from two sources. The first being a reduction in gas usage and bills, and the second from Renewable Heat Incentive ("RHI") payments from the government.

The online marketing that GEPS was using around that time focusses heavily on those benefits and uses statements such as "*Reduce your heating bills to ZERO!*" and "*EARN UP TO £1,445 RHI PER YEAR*". This supports Mrs T's version of events about what she was told by the sales representative.

A '*system performance information sheet*' was also produced for Mrs T setting out the details of the heating pump she was buying – along with its expected performance. It refers to several benefits and estimated savings but isn't clear about how they compare to the cost of servicing the loan. The sheet also refers to the RHI benefits Mrs T could expect but doesn't highlight they would end three years before the loan term ends.

Given the complexity of the estimated benefits and lack of clarity comparing those to the loan costs, I consider it likely Mrs T would have been reliant upon the sales representative to explain how everything would work.

Mrs T says she had no issues with her previous heating system, and at the time of sale she was retired and in poor health. Her income consisted of a modest pension and disability living allowance. So, I think it's reasonable to conclude that it was the inducement of cheaper bills that led Mrs T to purchase the heating system – and I doubt she wouldn't have

knowingly put herself in a position where her outgoings could increase. So, on balance I'm persuaded the benefits of the system were misrepresented to Mrs T.

Had the real costs of the system been explained to Mrs T, I don't think she would have gone ahead with the purchase at all.

Putting things right

I consider each complaint on its own facts, and there's no exact science as to what is fair and reasonable. In this instance, Mrs T thought she was purchasing a system that wouldn't cost her anything. So, one option I've considered is to ask Ikano to restructure the loan agreement and reduce the cost to ensure the system would be self-funding.

However, I consider it would be difficult to make the system self-funding as Mrs T's costs have actually increased. As I've concluded she would not have purchased the system, I think fair compensation would be to put her back into the position she would be in were it not for the misrepresentation.

I've taken account of the fact Ikano says Mrs T has already received some compensation from GEPS, but I've also explained I don't think that's likely to be for the same issues. So, I'm satisfied it's fair and reasonable not to make any deduction for that sum now.

To put things right, Ikano should do the following:

- Arrange and pay for the air source heat pump system (including radiators) to be removed from Mrs T's property.
- Return Mrs T's previous heating system to working order and make good any repairs or redecoration required.
- Cancel the loan from its inception. As Mrs T hasn't made any payments towards the loan there will be no refund due.
- Calculate the increase in energy bills Mrs T has incurred since the installation of the system, and refund that amount to Mrs T less any RHI payments she's received for that same period.
- Remove any reference to the loan from Mrs T's credit file with all relevant credit agencies.
- Pay Mrs T £500 trouble and upset for the distress and uncertainty she's experienced.

my final decision

My final decision is that I uphold Mrs T's complaint against Ikano Bank AB (publ) and direct it to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 1 August 2020.

Ross Hammond
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