

The complaint

Mr Y has complained about the support Telefonica UK Limited trading as O2 offered him when he was in financial difficulty.

What happened

Mr Y had two fixed sum loan agreements with O2 to be paid back over three years. He'd taken the agreements out to pay for two phones. Mr Y also had airtime contracts with O2 for the two phones. Mr Y took out agreement 1 in December 2020, and agreement 2 in January 2021. Both agreements were to be paid back with payments of around £30 per month. I understand Mr Y's airtime payments were both around £20 per month. So, in total, Mr Y was required to pay around £100 per month towards the loans and the airtime.

Towards the end of January 2021 Mr Y called O2 to change the date of his bill. He pushed back the payment date slightly. O2 recalculated the bill pro-rata, meaning the bill was higher than usual – around £180. Mr Y wasn't expecting the bill to be higher than £100 so he complained about it. O2 offered to credit Mr Y the difference between the two bills to his airtime account for his next bill.

Mr Y paid his bill on 26 February 2021 and contacted O2 the next day to ask about obtaining a payment deferral on his two agreements because his income was going to be impacted the following month due to Covid-19. O2 said it couldn't apply the deferral at that time because there were no outstanding balances. So it suggested Mr Y call back on 19 March 2021 when his new bill was produced so a deferral could be arranged.

Mr Y complained he wasn't getting the support he needed. O2 responded to say the information Mr Y was given was correct. It also gave Mr Y a warning for using foul and unacceptable language to its advisors.

O2 produced Mr Y's bill on 19 March 2021, but as it had applied the credit from the previous month to his airtime balances, there was a credit balance on those accounts, and it explained it wasn't able to offer a deferral on the fixed sum loan agreements because of this.

Mr Y continued to complain and request the payment deferral. O2 explained that customers weren't able to request a payment deferral in line with the Financial Conduct Authority's (FCA) Covid-19 specific guidance after 31 March 2021. So Mr Y complained and made a Subject Access Request (SAR).

O2 offered Mr Y a goodwill credit of £120, equivalent to three months of airtime payments for the two accounts, but Mr Y wasn't happy with this. He was offered an additional £20 credit on each account. Mr Y wanted credits to be applied to his loan agreements as opposed to the airtime account. But it wasn't clear whether O2 could do that.

O2 sent a final response to Mr Y. It said it hadn't been able to complete a SAR response because Mr Y hadn't provided his identification. It said its information provided about the deferral requests was correct. It said it would set up a payment plan for six months if Mr Y

was in financial hardship. And it again warned Mr Y about the language he was using towards its staff.

Mr Y wasn't happy. He says he had to borrow money from elsewhere to pay his O2 bill. He was also unhappy with how his accounts were being reported to the credit reference agencies. So he brought the complaint to our service.

O2 responded to the Financial Ombudsman to say it had applied a goodwill gesture of £70.75 to his airtime account even though the bill was correct. It reiterated it was unable to offer a deferral because initially payment wasn't due, and subsequently because the airtime account was in credit. It also explained Mr Y had rejected various offers to be applied to his account. It subsequently acknowledged that it was unclear why it couldn't offer to defer the fixed sum loan agreements separately to the airtime contract. So it offered to refund Mr Y six months' payments towards the two loan agreements, totalling just under £200.

Our investigator looked into things and explained that he could only consider the complaints relating to the regulated loan agreements, and not the airtime contract. He thought that O2 should have offered Mr Y a deferral as per the FCA Covid-19 guidelines. He noted O2 had placed a query marker on the credit file, while the dispute was ongoing. But he didn't think any action needed to be taken in relation to that because the marker didn't have a negative effect on the credit file.

Our investigator thought O2 should reimburse Mr Y a total of £197.07. This is calculated as three payments of £65.69 – the combined monthly loan repayments. Our investigator thought this would effectively put Mr Y back in the position he would've been in had the deferral taken place. And he asked if this would extend the agreements by three months, or whether O2 would make a refund as a gesture of goodwill. And he thought O2 should also pay Mr Y £250 compensation for the distress and inconvenience caused.

Mr Y explained he expected £197.07 to be refunded as opposed to deferred. And he agreed with the £250 compensation. O2 responded to say it couldn't extend the agreement and so if it refunded the £197.07 it would become immediately repayable. It said it would agree to pay £250 compensation to resolve the complaint, but it didn't think refunding £197.07 in addition to that was proportionate.

Our investigator agreed that compensation of £447.07 seemed too high. But Mr Y didn't agree, and so the case was passed to me to make a decision. Mr Y also provided us details of payday loans he says he took out during the Covid-19 pandemic.

I sent a provisional decision that said:

I want to acknowledge that I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I want to assure Mr Y and O2 that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Like our investigator pointed out, I'll be focussing on Mr Y's complaint relating to his two regulated consumer credit agreements. Our service has the power to deal with complaints relating to these sorts of agreements. But due to the nature of how O2 has issued certain refunds to the airtime account, I'll be considering those in the round as well. It looks like O2 completed its SAR response after Mr Y provided what was needed, so I won't comment on that further.

Having considered the evidence submitted I think, on the whole, O2 has tried to assist Mr Y. But, as it has acknowledged, I do think it could have offered better support when he asked for a payment deferral.

The FCA released various guidance throughout the Covid-19 pandemic setting out how it expected firms to support customers who faced payment difficulties due to Covid-19. And it made a number of rule disapplications. The payment deferral guidance was intended to provide exceptional and immediate support for consumer credit customers facing temporary payment difficulties due to Covid-19 up to 31 July 2021, unless this was obviously not in the customer's interest. Customers needed to apply for the deferral by 31 March 2021. After this, firms were required to provide tailored support to customers who needed it.

In Mr Y's case he was told in February 2021 O2 couldn't offer him support at that time because his accounts were up to date. He was told to call back the following month when his payment became due. Given Mr Y had said his income was impacted by Covid-19 and given the requirement for exceptional and immediate support, I think O2 could have done more at this point to show it was willing to help him. It seems O2's system couldn't apply the deferral at that stage. But if that was the case, I think it should have done more to reassure Mr Y and/or diarise future support for him.

In March 2021 O2 said it wasn't able to offer him a deferral because his airtime accounts were in credit. Again, it seems like a system limitation that meant it was unable to offer support on the loan agreements because the airtime contract was in credit. I think it could have done more to support Mr Y at this point. Mr Y had until 31 March 2021 to ask for a deferral, so by not being allowed to in March 2021, it meant he lost that opportunity.

Mr Y got in touch with O2 because he, like many people, was facing uncertainty and his income had been impacted by Covid-19. The FCA guidance was intended to give some immediate relief for consumers. So by not doing that I think O2 didn't give Mr Y the support he needed at what was already a difficult time.

I've reviewed the calls supplied. While O2 was trying to help, it did give Mr Y some conflicting information around whether it could move funds from the airtime account to the device plan. It wasn't totally clear when he needed to call for help. Mr Y had to repeat his story to various agents, and there was some confusion about how compensation was calculated. Mr Y also said there's been quite a few dropped calls. So I can appreciate all of this added to his frustration. He's also unhappy he wasn't told the initial airtime refund would impact a future deferral request, but I'm not sure that would've been foreseeable for the agents at the time when they were trying to help him.

However, it's only fair to point out it did let Mr Y know that if he was in financial difficulty, it would offer a six-month payment plan. It had already offered around £70 in compensation when the bill was correct. And it made various offers towards his airtime contract. But this didn't solve the issue Mr Y was having of having to pay his credit agreements. Given it looks like the FCA guidance was intended for people like Mr Y, I think O2 could've handled things better.

How to put things right?

As I've said above, I think O2 did offer some assistance to Mr Y, but I think it could've done more to offer the deferral support he needed at what was already a worrying time given his income was reduced.

A long time has passed since Mr Y asked for a deferral. And the Covid-19 specific deferral support ended in July 2021. I'm not intending to direct O2 to retrospectively reimburse him

the three payments he made that could have been deferred. Mr Y has indicated he wants this money refunded, but even had he deferred the payments in the first place, they still ultimately would have been repayable to O2. So I'm not going to ask O2 to return those payments. However, if Mr Y is still in any sort of financial difficulties, I'd expect O2 to treat him with forbearance and due consideration.

I've also considered the evidence Mr Y has submitted detailing short-term lending he took out. It looks like he borrowed £500 in November 2020 and £300 in December 2020. So I can't say he took out these loans as a result of not receiving a deferral – they were from a few months earlier. But I can see he needed to make repayments for the second loan in February and March 2021, around the time he asked for assistance. He's also shown us details of another loan he took out for £400 in July 2021, when he could have had a deferral in place. Given the times he took out the loans, and the amount of the loans being in excess of the required payments, I don't find I can conclude he took the loans out solely as a result of not being given a deferral. But I think not having a deferral would have put extra strain on his finances at the time and would have caused him some inconvenience.

Having considered everything, in the round, I think the award our investigator recommended and O2 agreed to of £250 is fair in all the circumstances. I'm not intending to make any other recommendations.

Mr Y strongly disagreed with the decision. He reiterated he'd received contradictory stories three months in a row, and that O2 contributed to his distress and financial difficulties. He said a fair outcome would have been a refund of three monthly payments together with £250 compensation. He also said O2's actions led to him taking out further borrowing and that he had a right to the three-month payment deferral.

O2 hasn't added anything further.

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.

I've thought about Mr Y's responses to my provisional decision. He's reiterated what he's told us before. And no new evidence has been presented. So for the reasons I've already set out, I see no reason to depart from the conclusions I reached in my provisional decision.

Briefly, I've acknowledged O2 should have handled things better when dealing with the payment deferral request, and the impact on Mr Y of not receiving the deferral. I've set out why I couldn't conclude Mr Y took out the loans solely as a result of O2's actions. And I've explained why I think £250 compensation is fair in all the circumstances of the complaint.

I should point out that Mr Y doesn't have to accept this decision. He's free to pursue the complaint by other means, such as through the courts, if he wishes.

My final decision

My final decision is that I uphold this complaint direct Telefonica UK Limited trading as O2 to pay Mr Y £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 2 December 2022.

Simon Wingfield
Ombudsman