

The complaint

Ms M has complained about the way Telefonica UK Limited trading as O2 treated her in relation to a fixed sum loan agreement she took out to buy a new mobile phone.

What happened

Ms M says she contacted O2 to get some advice and prices on a new phone in May 2022. She decided on a model and O2 entered into a fixed sum loan agreement with her to pay for the phone. Ms M settled the agreement by paying O2 £801.52 on 4 May 2022. When Ms M received the handset, she said it had no charger and had a few small scratches on the rear camera lens. Ms M tells us she contacted O2 considering a replacement, but after speaking to the agent she decided to ask for a refund as she says she was given contradictory information. Ms M says she cancelled the order and sent the phone back on 16 May 2022. In summary, Ms M says she was unhappy because:

- The phone was damaged.
- She found the phone for cheaper elsewhere. And it was only when she mentioned it that a special deduction was made.
- She was given wrong information regarding additional extras which caused the loss of some months of a subscription service.
- She was misled by O2, lied to, and thought the service was awful.

Ms M says O2 told her she'd receive a refund within 10 days, which didn't happen. It looks like O2 reinstated her subscription service, but Ms M says it let her down on multiple occasions and it took far longer to receive a refund than should be expected. She said O2 promised to make the refund along with a credit of part of the £30.54 airtime she was told to purchase with the handset. O2 processed a refund of £821.52 on 5 July 2022 and Ms M received it a few days later.

Ms M complained to O2. She said she'd been caused stress, pain and distress. She'd spent a lot of time trying to resolve things and it had impacted her health.

O2 sent a final response to apologise for the service Ms M had received. It referred to an initial offer of a £10 goodwill payment that was later increased to £30. To further apologise, O2 raised a credit for £75 which was applied to her airtime account.

Ms M wasn't happy with the response. She says O2's investigation was lacking in depth. She thought the £75 offer was an insult given the time taken to get her money back, the numerous conversations she had to initiate, and the impact it had had on her health. Ms M was also concerned about the impact of having the credit agreement on her credit file. She says O2 didn't adequately inform her about how the loan would work. Ms M referred the complaint to our service.

Prior to our investigator looking into things, O2 looked at its complaint response again and felt the previous credits it provided didn't go far enough. So it offered to pay her £200 direct.

Our investigator felt there was insufficient evidence to show the agreement was mis-sold because O2 couldn't provide a copy of the sales call. However, he agreed the refund took too long to process and he thought this had adversely impacted Ms M. He thought O2's £200 offer along with the other credits made were fair. He said our service wasn't able to consider complaints relating to the airtime contract. So he made no further recommendations.

Ms M was unhappy O2 didn't have the relevant phone call. She acknowledged receiving £75 from O2 but said the £30 received in June wasn't a gesture of goodwill, but a refund for the airtime tariff she'd been made to take out. She said she had no issue with the subscription because O2 had resolved that part of the complaint. Ms M thanked the investigator but asked for a second opinion.

As the complaint couldn't be resolved, it's been passed to me 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.

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 Ms M 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.

I also want to say I'm sorry to hear the matter has caused Ms M distress, and that I thank her for taking the time to bring her complaint to our service.

O2 entered into a fixed sum loan agreement with Ms M for the purchase of the phone, and our service is able to consider complaints relating to these sorts of agreements.

It doesn't seem to be in dispute that things haven't gone as they should have done. O2 has acknowledged the sale wasn't completed in the usual manner. It took around two months for Ms M to receive a refund after cancelling the order and returning the phone. O2 didn't do what it said it was going to do with the refund and for call backs. And the misinformation Ms M received was no doubt frustrating for her.

I'm not going to go over everything again. As I said above, we're a quick informal resolution service. So it's my role to decide if O2 have done enough to put things right.

Ms M has acknowledged she received £75 credit. She's explained the £30 she received was a refund that was due and not compensation. O2 has offered a further £200 compensation. So has it gone far enough?

O2 made various mistakes made that have impacted Ms M. She must've been very disappointed it took longer to receive the refund that it should have done, and I imagine it was disappointing not to receive call backs when promised. Ms M felt O2 was giving her contradictory information throughout which added to her complaint. While it looks like O2 gave Ms M a better deal on the phone when she highlighted she could buy it cheaper elsewhere, O2's own notes indicate it was set up in a different way to usual. While I don't think O2 was trying to cause Ms M detriment here, I can understand why she was concerned when she found out the sale wasn't completed in the usual way. She'd been a longstanding customer and hadn't had this sort of issue before.

I'm mindful Ms M has said the matter has impacted her health. But I also have to consider that £200 compensation seems broadly in line with what I would have recommended had the offer not already been on the table. There were a number of small errors over a couple of months that have led to Ms M having to put in effort to resolve things. It's had a negative impact on her. But I think O2's overall offer fairly compensates Ms M for what's gone wrong.

I agree it's disappointing the sales call isn't available. It would have been useful to hear it to see what explanations were provided and to gain a better understanding of why the arrangement was set up this way. But as our investigator has pointed out, ultimately Ms M was able to come out of the contract, at no cost. So even if I were to find O2 misinformed Ms M or misrepresented something, I may have directed O2 to unwind the agreement – which isn't needed now.

All things considered, I can appreciate why Ms M is unhappy. O2 has apologised, credited her £75 and now offered a direct payment of £200. For completeness' sake, given Ms M paid off the agreement straight away and ultimately cancelled the order, if not done so already, O2 should remove record of the loan from her credit file. Overall, I find this is a fair and reasonable way to resolve things and I'm not going to direct it to do more. I hope it helps to have an independent impartial review of her complaint.

My final decision

My final decision is that, to the extent it's not done so already, Telefonica UK Limited trading as O2 should pay Ms M £200 and remove record of the loan from Ms M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 24 February 2023.

Simon Wingfield
Ombudsman