

The complaint

Mr C complains about some missed payment information Sky UK Limited have recorded with credit reference agencies.

What happened

In September 2022, Mr C took out a fixed sum loan agreement with Sky, to pay for a brand new mobile telephone device. Mr C already had other accounts with Sky which financed a different handset and a charger.

Shortly after taking delivery of the device, Mr C changed his mind and contacted Sky to cancel the loan agreement. Because Mr C had done so within a fourteen day cancellation period, Sky arranged for returns packaging to be sent to Mr C's home address. It was then for Mr C to return the device, in order for the agreement to be ended with nothing further to pay.

Around the same time, Mr C also cancelled the Direct Debit instruction with his bankers, to prevent Sky from taking any payment for the device. But, the Direct Debit paid for all the services Mr C had with Sky, not just the returned device. This meant all Mr C's accounts with Sky entered into arrears.

Mr C didn't receive the returns packaging from Sky, so they sent some more to him in November 2022. Sky confirmed receipt of the device around a month later. But, by that time Sky were pursuing Mr C for repayments towards the arrears, across all of his accounts.

In January 2023, Mr C complained to Sky about the arrears on his accounts. He said he cancelled the Direct Debit as he didn't want to pay for a device he didn't have. To resolve Mr C's concerns, Sky agreed to waive some of the arrears and took a payment from Mr C for the remainder. Sky also told Mr C they would clear any missed payment information from his credit file and send him a replacement SIM card.

Although Mr C accepted Sky's offer, he contacted them again and said that missed payment information remained on his credit file. And that an application for borrowing he had made with another lender had been declined. Sky told Mr C that he had missed payments to his other Sky accounts, so the information on his credit file was accurate. Consequently, Mr C brought his complaint to us.

One of our investigators looked into Mr C's case and found that Sky had treated Mr C unfairly. He concluded that Sky didn't tell Mr C that he should make part payments for his other accounts, when he cancelled the loan agreement for the device.

The investigator was persuaded that the accounts would not have entered into arrears, had Sky given Mr C clear information about making payments. So, the investigator said Sky should remove all missed payment information from Mr C's credit file, apart from the payment due, two days after the agreement for the device was cancelled.

Neither Sky nor Mr C accepted the investigator's findings. Mr C said he wanted a

compensation payment for the distress Sky had caused and for all the missed payment information to be removed. Sky said Mr C had withheld payments for his accounts, so the missed payment information should remain.

The investigator didn't change his opinion and Mr C's complaint has now been passed to me to make a decision.

I sent Mr C and Sky my provisional decision on this case, on 26 January 2024. I explained why I think the complaint should be upheld. A copy of my provisional findings is included below:

This case is about a fixed sum loan agreement which Mr C took out with Sky. These types of loans are regulated financial products, so we are able to consider complaints about them.

The device sent to Mr C under the fixed sum loan agreement was returned and Sky cancelled the agreement. Mr C hasn't complained about the device itself and Sky seem to have accepted he could return it.

The crux of Mr C's complaint is about what he was told about his Direct Debit, when he called to tell Sky he no longer wanted the device. Mr C says the advice given to him caused the arrears on his account. So, I've looked at what happened here to decide if Sky have treated Mr C fairly.

Sky have explained that their process is to take one monthly Direct Debit payment, which covers all the accounts held by Mr C. In other words, if Mr C has multiple fixed sum loan agreements with Sky, he'll only ever make one Direct Debit payment each month.

But, Mr C says that due to his financial circumstances at the time, he didn't want to make a payment for the fixed sum loan agreement he had cancelled. I think Mr C's position here was reasonable, in that he realised that paying for the device may have put pressure on his other financial commitments.

Sky have provided a copy of their contact records, which show the communication they had with Mr C from September 2022 onwards. Having looked at those records, although I can see where Mr C cancelled the fixed sum loan agreement, it's not clear what was said about the monthly Direct Debit.

So, I've looked at the terms and conditions of Mr C's fixed sum loan agreement for the device, to see what his contract says in such circumstances. On page three of the fixed sum loan agreement it says:

"5.2 If you decide to withdraw from this Credit Agreement, we will treat this Credit Agreement as if it had never been entered into."

Section five of the terms and conditions goes on to explain that the device must be returned to Sky within 30 days. If the device isn't received within 30 days, the contract says Mr C will have to pay for the total amount due under the agreement.

I think the terms and conditions of the agreement between Mr C and Sky explain that while the agreement will be treated as cancelled, there's still a timeframe, whereby Mr C may be liable for the cost of the device. And after considering the rest of the agreement, I don't think it explains what Mr C should have done, in light of his other agreements with Sky.

Sky have since explained that Mr C was able to contact them, to pay an amount for his other agreements. But, Mr C says this wasn't explained to him in October 2022 and it wasn't until

January 2023, when Sky addressed his concerns, that he released he had that option. I've listened to the call Sky had with Mr C in early January 2023, and I accept what Mr C says here.

I'm persuaded that Mr C was given the impression that payments for the mobile telephone device would continue, until Sky had received it. Having thought about everything, on balance, I don't think Sky told Mr C that he could pay a lower amount, for the agreements he wanted to retain. So, I don't think Sky treated Mr C fairly.

To help me decide what remedy Sky should put in place, I've thought about what Mr C was likely to have done, had Sky told him what he needed to do about his Direct Debit.

During our investigation, we asked Mr C to provide us with a copy of his credit file and his bank statements from September 2022 to January 2023. This information would demonstrate Mr C's ability to have paid for the rest of his agreements, had Sky explained the options available to him.

Although Mr C didn't send that information to us, I think the arrangements he made on the call with Sky in January 2023, add weight to his argument, that he was able to service the repayments to his other agreements. I say this because Mr C repaid the arrears owed in that call, when Sky addressed his concerns and told him how much he needed to pay. Additionally, I can see where Mr C pursued Sky in the previous months, to try and address the arrears and his concerns.

Sky have explained that Mr C caused a delay when they asked him to return the device in October 2022. And that this delay led to the arrears on his accounts. I've looked at the timescale involved and I can see that it took around six weeks, from the cancellation of the fixed sum loan agreement, to when Mr C confirmed to Sky that he had returned the device.

However, I can also see that Mr C was in touch every two weeks with Sky. Firstly, Mr C called Sky to say he hadn't received the returns packaging. He then called to tell them he had received it and finally, he contacted Sky to ask if they had received the device. Against this background, I think the time taken to return the device was reasonable. I also note that Mr C didn't use the device, so I don't think he gained any benefit from any delay that Sky say he caused.

I've concluded that Mr C didn't cause an unreasonable delay in the return of the device and that he wasn't given advice about what to do about the Direct Debit for all his agreements. I've also found that Mr C was likely to have made the payments, had he been given the option to only pay for the products he wanted to retain.

To put matters right, I think Sky should remove all the missed payment information about Mr C's accounts with Sky from the date the fixed sum loan agreement was cancelled, to the date the Direct Debit was reinstated in January 2023. This means Sky should remove this information, from the details held with credit reference agencies.

Mr C has explained to us that he was concerned about the negative information on his credit report. He says he was declined credit after he thought Sky had corrected things in January 2023 and that the worry worsened his personal circumstances.

I've thought about all the evidence we have, which demonstrates Mr C's circumstances at the time. While I empathise with what Mr C has told us, I'm not persuaded the evidence shows that the information recorded by Sky on his credit file was the sole reason he was declined credit.

But, I think the distress Mr C experienced was exacerbated by how Sky treated him. So, I think it's fair for Sky to make a payment to Mr C to reflect the distress they caused. Having considered everything, I think it's fair for Sky to pay Mr C £150 for the distress and inconvenience he experienced.

Mr C didn't respond to the provisional decision. Sky responded to the provisional decision and accepted it.

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.

As Sky accepted my findings and Mr C didn't make any further comments, I see no reason to depart from the conclusions I reached in my provisional decision.

Putting things right

For these reasons, Sky UK Limited should:

1. Remove all the missed payment information about Mr C's accounts with Sky, from 21 October 2022 to 21 January 2023, from the records held with credit reference agencies; and
2. Pay Mr C £150 for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint and require Sky UK Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 March 2024.

Sam Wedderburn
Ombudsman