

The complaint

Ms A has complained Vodafone Limited is asking her to repay a credit agreement for a Samsung handset which she didn't order.

What happened

Ms A was concerned at the high roaming charges she'd received and called Vodafone. She believes she was offered a free Apple watch in compensation. Two days later when a parcel was delivered she paid no real attention to it.

She later discovered she was being charged for airtime and a new Samsung handset and complained to Vodafone. They confirmed she'd placed this order online and continued to expect her to repay what was agreed.

Ms A brought her complaint to the ombudsman service with a detailed breakdown of the calls she'd made to Vodafone in August 2023.

Our investigator reviewed the evidence but felt this showed a device was sent to Ms A's home address, along with emails and texts confirming the order and an agreement taken out for airtime and a new handset. He wasn't going to ask Vodafone to do anything further.

After further discussion with Ms A's husband, our investigator asked Vodafone whether they would accept the handset back and cancel any future payments. Vodafone wouldn't agree to this option.

Ms A has asked for her complaint to be referred to an ombudsman.

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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

Evidence from Vodafone shows a device sent to Ms A's home address. Both parties agree this is the case.

However, the remaining evidence from both Vodafone and Ms A is contradictory. I don't doubt from what Vodafone has demonstrated that emails and texts were sent to the relevant number and Ms A's home email address. Vodafone has also explained they have procedures in place to ensure orders aren't placed in error, by children generally. They send the loan agreement electronically and this has to be read and electronically signed by the person using the registered email address. This is what happened here.

However, I don't believe this definitely would ensure that no other family member could access, for example, Ms A's email address and read, sign and return the loan agreement in her name. What is then inexplicable, I appreciate, is why the device after being received in Ms A's household remained unused.

Two things could potentially have happened. Ms A has misled us throughout this complaint and in fact ordered the phone in error and was then too embarrassed to do anything about it. Or, and what I believe is similarly credible, another family member used Ms A's email address to order the phone intending to use it themselves but then found it too difficult to do so.

What I don't believe is that any great fraud has happened here. The loan agreement is being repaid despite whatever happened. Ms A may well have made a mistake which she's been too embarrassed to admit or someone else ordered a phone in her name. Ms A and her family have been more than willing to return the phone.

I've discussed this complaint with Vodafone. Like our investigator, I wanted to know whether Vodafone would be prepared to accept the unused, and unopened, device back. I confirmed I wasn't convinced Ms A had ordered the device and believed it could have been ordered by another family member. And if this were what I decided then I'd be prepared to instruct them to take back the device. For their own reasons, Vodafone has stuck to their position that their business practices are fair and there was always the 14-day cooling-off period. I don't dispute this. However, I do believe I can, under my fair and reasonable remit, instruct Vodafone to take back the device on the basis I'm not convinced Ms A ordered this device. This is what I will be doing. And asking them to write off the remaining debt and amend Ms A's credit record accordingly.

If, however, the device has been used, then Vodafone remain within their rights to refuse the device being returned and continue to require Ms A to make payment for the device.

My final decision

For the reasons given, my final decision is to instruct Vodafone Limited to take back the device in Ms A's possession, stop asking her to repay the remaining debt in her name and remove any reference to this loan from her credit record. This instruction to Vodafone Limited is based on the device being in its original condition.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 22 April 2024.

Sandra Quinn
Ombudsman