

The complaint

Mrs H has complained about the quality of a device she bought using a fixed sum loan agreement with EE Limited.

What happened

In June 2023 Mrs H bought a device using a fixed sum loan agreement with EE. The device cost around £900 and it was to be paid back with monthly payments of around £25 for three years.

From what I've seen, Mrs H contacted EE in December 2023 because she'd been having several issues with the device. EE's notes say Mrs H told it she'd been having intermittent issues making or receiving calls for a couple of weeks. Mrs H said EE's agent gave her some steps to take to try to resolve things, but they didn't work. Mrs H said EE told her other customers had experienced similar issues. She said she spoke to several agents over the next few days and was offered an instore repair. Mrs H said she was unhappy with the offer because the device and contract are expensive, and she requested a new device or a repair and reduction of her bill for the period the device was faulty. Mrs H said EE rejected the proposal. Mrs H asked about terminating the agreement but was told there was a fee of around £300.

EE said the options were for Mrs H to send the device to its repair centre or for her to contact the manufacturer for a warranty repair.

Mrs H decided to refer her complaint to our service. One of our investigators liaised with Mrs H and EE, and the device was sent for inspection. Mrs H was unhappy a loan device couldn't be supplied at the time. The inspection couldn't find any faults with the device. Our investigator ultimately concluded that EE's offer for a repair was in line with what he'd expect, and it was made around the time Mrs H first reported the issue. He said no fault was found, and that after a software upgrade the device seemed to be working as normal. He made no recommendations.

Mrs H didn't agree. She said she didn't contact EE regarding a replacement device initially, it was simply for help to resolve the issue. She said she didn't just ask for a repair, she requested reimbursement for the time it was faulty. She highlighted not having a working device for the length of time wasn't acceptable, and just because EE couldn't find the faults didn't mean they weren't present. As things weren't resolved, the complaint has been passed to me to decide.

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'm required to resolve complaints quickly and with minimum formality. I want to assure Mrs H and EE 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'm sorry to hear about the trouble Mrs H went through. I appreciate her circumstances and that she needed to be contactable. I want to thank her for taking the time to bring her complaint to our service.

Mrs H bought the device using a regulated fixed sum loan agreement, and our service is able to deal with complaints relating to these sorts of agreements. From what I can see, EE was the supplier of the device as well as the creditor.

The purchase of the device is subject to the terms implied by the Consumer Rights Act 2015 (CRA). The CRA implies terms into the contract that goods supplied will be of satisfactory quality. The CRA also sets out what remedies are available to consumers if statutory rights under a goods contract are not met.

If there was a fault with the device that made it of unsatisfactory quality, there'd be a breach of contract. The key factor I need to bear in mind is that other than Mrs H's testimony, I've not been supplied sufficient supporting evidence of a fault with the device that enables me to safely conclude there was a breach of contract. The device was sent for inspection and no fault was found. So I don't find I can fairly direct EE to take action, like pay compensation, as a result of a breach of contract.

Moreover, while I appreciate Mrs H said she didn't initially request a replacement device, she just wanted some help, I'm conscious that EE's offer was broadly fair and in line with the requirements under the CRA – a repair. Mrs H couldn't reject the device when she asked to for several reasons, primarily because there wasn't evidence of a fault that made the device of unsatisfactory quality. And even if a fault had been established, she was outside of the short term right to reject period of 30 days, so EE would've been entitled to a repair attempt first, which is what it offered.

I can understand why Mrs H needed her device. And perhaps there were issues that a software update resolved. But I'd like to have been more certain there was a fault that made it of unsatisfactory quality. And while Mrs H said the issues remained for some time, she could have accepted the inspection/repair offer that EE made around the time she first contacted it, which would have lessened the impact.

While I'm sympathetic to the situation, without sufficient evidence of a fault that made the device of unsatisfactory quality, I don't find I have the grounds to direct EE to take any further action.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 28 November 2024.

Simon Wingfield

Ombudsman