

The complaint

Mrs S complains about the service she received from Raylo Group Limited (“RGL”) when she returned a mobile phone it had hired to her under a regulated consumer hire agreement.

What happened

I issued a provisional decision on Mrs S’s case on 15 August 2024, in which I outlined the background to this complaint, and my provisional findings. A copy of that provisional decision is appended to, and forms a part of, this final decision.

It’s not necessary for me to go into detail again about what happened as a result, but in brief summary:

- Mrs S entered a regulated consumer hire agreement with RGL for a refurbished mobile phone, on 15 March 2023.
- Mrs S was unhappy with the condition of the phone when she received it. She said it had various significant dents and scratches. She contacted RGL by email on 20 March 2023 asking to return it. She asked that RGL contact her if they had a “clean” phone they could send her, but to cancel her agreement if they didn’t.
- RGL dealt with this as a claim under their warranty, and issued a replacement phone. Mrs S refused delivery of the phone.
- The replacement phone was mislaid by RGL’s courier, and RGL continued to charge Mrs S for her regular hire payments. When Mrs S contacted RGL about this, she was told that she had made a warranty claim and couldn’t cancel the agreement now, unless she paid around £400.
- A complaint was made. RGL maintained that Mrs S had asked for a warranty replacement device. The phone which had been lost by the courier was then found, and RGL offered to close the agreement.
- There was then a dispute over a refund of the payments RGL had taken after Mrs S had returned the phone. A variety of different offers were made, but in the end Mrs S accepted an offer of a full refund to her new bank account details, and sent these details to RGL. No refund was forthcoming, triggering the referral of the complaint to the Financial Ombudsman Service.

In my provisional decision I made the following key findings:

- The agreement between Mrs S and RGL was a regulated consumer hire agreement, meaning the Financial Ombudsman Service had jurisdiction to consider a complaint about how the agreement had been administered.
- It didn’t appear to have been disputed that the phone received by Mrs S was not in the condition it should have been. Under the relevant consumer legislation, Mrs S

had been entitled to reject the phone and have the agreement unwound.

- RGL had misinterpreted Mrs S's email in which she'd requested the return of the phone. It had understood this to be a claim under the warranty and that Mrs S wanted the phone replaced. However, the email had been more nuanced than this and Mrs S wanted to be contacted if RGL had a phone in better condition, and have the agreement cancelled if they didn't. I thought RGL should have sought clarification from Mrs S before simply sending her a replacement phone.
- RGL's initial attitude to Mrs S's concerns had been indifferent. It was necessary for a complaint to be made before things were investigated, and Mrs S had to prompt basic actions like checking with the courier for the whereabouts of the phone. Some of the things RGL had said weren't appropriate, such as telling Mrs S she couldn't have a full refund because she'd changed her bank details.
- A technical issue had caused a screenshot containing Mrs S's new bank details to be removed from the email she'd sent to RGL, causing the email to appear blank. RGL had failed to follow up on this email, when it should have done, and this had caused the refund to be delayed.

I thought the level of service provided by RGL had been poor overall and £150 compensation would be a fair amount to reflect the impact of its poor service. I said I was minded to direct RGL to pay this amount, along with a refund of the payments which had still not been returned (along with compensatory interest), and to end the hire agreement and remove it from Mrs S's credit file. I asked both parties to respond to my provisional decision before 29 August 2024. Mrs S has not responded. RGL provided a detailed response which I could fairly summarise as follows:

- It would agree to take the actions I'd suggested in my provisional decision.
- It had not reported any credit markers in relation to the agreement, so it didn't think there was further action for it to take in respect of this.
- It wanted some clarity over how much compensatory interest it should pay, as it considered it was not responsible for all of the delays in the refunds being made. The Financial Ombudsman Service complaints process had taken many months to conclude.
- It didn't think it had misinterpreted the cancellation email from Mrs S. It had been able to offer a replacement device, so it had done this. Mrs S had only wanted to cancel the agreement if this couldn't be offered. It also said that it was unable to find this cancellation email.
- It had tried to resolve matters again with Mrs S after she had referred her complaint to the Financial Ombudsman Service, but she had made unreasonable demands of £5,000 compensation and a brand new phone.
- It did in fact dispute that the phone Mrs S initially received was not in acceptable condition. The phone had passed its checks before being sent to Mrs S, and after being inspected on its return, they had thought the phone was in a very good condition.
- Its warranty return and cancellation processes were entirely separate. A customer has to choose one or the other. There were other conversations it had had with Mrs

S on 18 March 2023 in which she had agreed to a warranty replacement. When it had raised a warranty return for Mrs S, she'd been advised it would be repaired or replaced, and she'd not raised any concerns about this and had in fact completed the process. For this reason, it hadn't felt it necessary to clarify Mrs S's returns email with her. Mrs S's refusal of delivery had not triggered a cancellation, but RGL would normally have contacted a customer in circumstances like this to find out what they wanted to do. It accepted there had been a delay however, in realising that delivery had been refused. The phone had not been lost, it was just delayed in being sent to RGL's new warehouse.

- Mrs S had been correctly advised of the process for cancellation outside of the cooling off period of 30 days. Mrs S hadn't been charged for cancellation in the end, as the reason she was outside the cooling off period was the logistics delay.
- It accepted on reflection that one of the resolutions it proposed to Mrs S was not ideal, but wanted to clarify that it had only offered a voucher in lieu of a refund to avoid a delay in Mrs S receiving the money. It accepted that the refund process hadn't gone well and the blank email from Mrs S should have been followed up rather than the conversation being closed. It said it had changed its processes to avoid this happening again.

The case has now been returned to me to review once more.

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 thank RGL for providing a detailed response to the provisional decision. Because it has agreed to take the actions outlined in the provisional decision, it's not necessary to provide a detailed, point by point analysis of its further submissions.

Commenting generally, it would have been helpful to have some of this detail earlier on in the process of investigating Mrs S's complaint. This is the first time, for example, that any argument has been made against Mrs S's claim that the phone was in poor condition, or that it's been said that Mrs S specifically agreed in messages (which have not been supplied) to return the phone for a warranty replacement.

I believe RGL has been referring to the same email I mentioned in my provisional decision, which is one quoted by RGL's complaints handler in correspondence with Mrs S. We do not have the original email, and it was assumed to have been sent on 20 March 2023, as this is the date various activity took place relating to a return of the phone. It is possible this email was sent earlier, although I don't think this is material.

RGL has made it clear that a customer can either return a device under the warranty, or return it to cancel the agreement, not both at the same time. Mrs S's email therefore didn't really fit properly into either category. I can understand RGL's point that, because it was confident in the quality of its products and felt it could offer a device in good condition, it didn't see a need to deal with the request as a cancellation or to discuss this issue with Mrs S. I still think it was important in the circumstances however, to clarify Mrs S's intentions and expectations over the "clean" replacement, as I thought her request was slightly ambiguous.

In any event, RGL did in the end agree to close the agreement, once the rejected phone had been located. I think whether the phone was lost or delayed is really a question of semantics

in this case. Whatever happened to it, the important point is that RGL was unaware of its location until Mrs S suggested it should check with its logistics partner. So even if RGL was right to interpret Mrs S's initial request as a warranty replacement, it appears the root cause of the later problems with the agreement not being cancelled after the replacement phone was rejected, was this logistical delay.

My findings regarding how Mrs S's concerns were handled the remain the same as they were in the provisional decision, though I have taken into account RGL's points around this. I know RGL is concerned that Mrs S made unreasonable demands in terms of compensation, but I don't think this is really relevant here as RGL wasn't obliged to agree with these demands, and my own conclusion was that the level of compensation that was fair and reasonable was significantly lower than the amount Mrs S requested RGL pay her.

Regarding the application of compensatory interest to the refunds, the standard practice is to calculate this from the date the complainant was deprived of funds they should have had, up until this is remedied. In this case, that would be from when the relevant payments were taken by RGL, up to the point they were refunded.

I understand the point RGL has made, which is that part of the delay in Mrs S receiving a refund has been because the case was being investigated by the Financial Ombudsman Service. However, things ultimately got to that position because RGL did not resolve matters at an earlier stage, causing the complaint to be referred to alternative dispute resolution and for Mrs S to be deprived of funds for longer. I don't think it would be right that the amount of compensatory interest is reduced when the root cause of the complaint was justified.

My final decision

For the reasons explained above, and in my appended provisional decision, I uphold Mrs S's complaint and direct Raylo Group Limited to take the following actions:

- End the hire agreement and remove it from Mrs S's credit file.
- Refund all payments made by Mrs S towards the hire agreement (including any deposit), adding 8% simple interest per year* to the refunded payments, calculated from the date Mrs S originally made them, to the date the refunds are paid.
- Pay Mrs S £150 compensation for the non-financial impact of its errors and poor service.

If any of these actions are not applicable – for example because they have already been taken, or because there is no credit file information recorded – then they do not need to be taken. If Mrs S accepts the decision, she will need to confirm her bank details to our investigator, who will pass them on to Raylo Group Limited for any payments to be made.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 26 September 2024.

*If Raylo Group Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs S how much it's taken off. It should also give Mrs S a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Will Culley

Ombudsman

COPY OF PROVISIONAL DECISION

I've considered the relevant information about this complaint.

Having done so, I've arrived at a different set of conclusions to our investigator, so I need to give the parties to the complaint an opportunity to comment before I make my decision final.

I'll look at any more comments and evidence that I get before 29 August 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mrs S complains about the service she received from Raylo Group Limited ("RGL") when she returned a mobile phone it had hired to her under a regulated consumer hire agreement.

What happened

On 15 March 2023, Mrs S entered a regulated consumer hire agreement with RGL for a refurbished Apple mobile phone. Under the agreement, RGL would hire the phone to Mrs S in return for an initial payment of £40.88, followed by 11 monthly payments of £40.88. This formed a minimum hire period, after which the agreement could be extended.

The agreement came with a 30 day cancellation period, under which it seems Mrs S was entitled to end the agreement for any reason, so long as she had not opened the box and had paid the return postage.

Mrs S received the phone but was unhappy with its condition. She said it had various significant dents and scratches. She contacted RGL by email on 20 March 2023 to ask to return the device. She added that she wanted RGL to "let her know" if they had a "clean" version of the phone available, and to cancel her agreement if they did not.

RGL apologised for the situation and said it would organise the return of the phone, and provide a pre-paid returns label. It said in one email that it would repair or replace the phone, and in another email sent the same day, that if Mrs S was returning the device for warranty purposes, it would be repaired or replaced, and that if she was cancelling she would be notified if any fees applied.

Mrs S says she didn't hear anything back but later received a package from RGL, which she refused to take delivery of, and so it was taken away again by the courier.

On 12 June 2023 Mrs S contacted RGL via webchat to report that it was still taking payments from her account despite her having returned the phone. There was then a discussion with a member of staff, who said that Mrs S had returned the device for a warranty repair, and hadn't asked to cancel the agreement. She said that Mrs S was now outside of the cancellation window, and would need to pay around £400 if she wanted to exit the agreement. Mrs S was surprised by this and asked to make a complaint. The staff member said that as far it looked to them, Mrs S had only returned the phone under warranty, but agreed to log a complaint.

Mrs S asked for several updates on the complaint between 16 June 2023 and 22 June 2023. In an email on the latter date, she provided some further information. She said she was receiving payment alerts from RGL, and asked why she was being asked to pay if she didn't have the phone. She explained that she'd returned the original device due to its poor

condition and had refused the delivery of a replacement phone.

On 26 June 2023 RGL provided an interim response to the complaint, noting that it had up to eight weeks to respond fully under the regulator's rules. It quoted back Mrs S's email in which she asked to return the device, and stated that she had asked for a replacement device. RGL asked if she still had this replacement device. Mrs S repeated that a replacement had been sent but she had refused delivery of it, and suggested RGL check with their logistics partner. She said she was surprised she was being charged, that she had closed her bank account but she was now getting payment due emails and texts, and these were causing her stress.

The following day, RGL emailed Mrs S to apologise and say they'd found the phone. They explained that a change in their logistics partner had caused a delay and asked if Mrs S wanted to close her account. Mrs S confirmed that she did, and that she wanted feedback provided to the member of staff she'd originally spoken to.

RGL sent Mrs S a final response to her complaint the following day. It said it wasn't upholding her complaint, as it felt that it had been justified in treating her email asking to return the phone, as a request for the phone to be replaced under the warranty. However, it said it had given feedback to the member of staff Mrs S had spoken to, and would close the account.

Mrs S replied the same day to ask what was going to happen to the payments RGL had taken from her bank account. RGL replied that these would be refunded, but it would take up to five working days. Mrs S responded that she had closed her bank account so she didn't have the same account details anymore.

RGL then emailed Mrs S to say it could only provide a refund to the account details Mrs S had originally signed up with. Alternatively, it said it would offer her a gift voucher equal to one monthly instalment (£40.88). Mrs S was unhappy with this response and said she thought she should refer her complaint to the Financial Ombudsman Service. The next day, RGL said that it could in fact update her bank details, but this could take up to 10 working days and it had offered the voucher as this would have been quicker. It asked Mrs S how she wanted to proceed.

Mrs S sent a screenshot of her new bank details to RGL the following day, 30 June 2023. She says she never received a reply, and on 29 August 2023 she referred her complaint to the Financial Ombudsman Service for an independent assessment. There was then a delay in obtaining enough information from Mrs S for us to be able to begin our investigation. The investigation started in October 2023.

One of our case handlers began to look into things. In the meantime, on 20 October 2023, it appears RGL contacted Mrs S to apologise for the delays, offer to refund her bank account with the taken payments, and give her a £75 voucher. Mrs S rejected this offer.

Our case handler thought the offer on the table from RGL at this point was fair, and he didn't think it needed to do anything else to resolve the complaint. Mrs S disagreed, and the complaint has now been passed to me to decide.

What I've provisionally 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.

The agreement Mrs S entered with RGL was a regulated consumer hire agreement, which

means the Financial Ombudsman Service is able to look at a complaint about how the agreement has been administered.

At its heart, this is a case about customer service, and unfortunately I think RGL's customer service has been poor throughout the sequence of events Mrs S had complained about.

The problems began when Mrs S was sent a refurbished phone which was allegedly in a very bad condition. While the phone was advertised as refurbished, RGL also appears to have promised that it would have only "light scratches" and would "look and feel great". It doesn't appear to have been disputed that the phone Mrs S received was not in the condition it should have been. That being the case, under the Consumer Rights Act 2015, Mrs S would have been entitled to reject the phone and have the hire agreement unwound.

I think RGL misinterpreted Mrs S's email asking to return the device. Mrs S was asking for two things in the email: she was looking for RGL to contact her *if* it had a device in good condition it could send her, or otherwise to cancel her agreement. RGL interpreted this as a request to return the device under the warranty, for repair or replacement. I think Mrs S's request was more nuanced than that, and RGL ought to have sought some clarity from her, but it doesn't appear to have contacted her before sending a replacement device. I don't think this was the right thing to do in the circumstances.

Mrs S refused delivery of the replacement device, which was then apparently misplaced by RGL's logistics partner. When Mrs S raised concerns that she was still being charged after returning the phone, I think these were treated in quite an indifferent way, and RGL maintained that she'd returned the phone under the warranty. It didn't offer to investigate, and instead told Mrs S she'd need to pay over £400 to exit the agreement.

Mrs S had to make a complaint for RGL to investigate, and it appears that even then RGL remained fixed in its (incorrect) interpretation of Mrs S's original return email, and it had to be prompted by her to make appropriate enquiries with its logistics company. I also found some of RGL's communications with Mrs S during the process to be inappropriate, such as initially telling her that she couldn't have a full refund of her payments if she'd changed her bank account, and could only have a voucher for 50% of that amount.

Matters then remained unresolved following the complaint because, although RGL later agreed that it would refund in full the payments it had taken following Mrs S's return of the phone, it then failed to do so. RGL says this was because all it received from Mrs S after it made this offer, was an email with nothing in it. Mrs S has shown us what the email looked like from her side, and it clearly contains a screenshot of her bank details.

It appears that whatever email system RGL was using, removed the screenshot from the email when it was received, so the email appeared to be blank. But, as our investigator noted, the right thing for RGL to have done in the circumstances would have been to follow things up. Instead, it took no further action, and it's difficult to understand why.

This brings me to the question of the impact of RGL's poor service on Mrs S.

Ultimately, her hire agreement wasn't ended when it should have been, and payments were taken from her bank account incorrectly. She was sent emails and texts demanding payment when no payments should have been due. The process of sorting things out was inconvenient and stressful, with a rather indifferent attitude being displayed to her concerns, and there were times she had to repeat herself. To date, it appears she has still not received the refund she should have.

In light of the above, I think a more appropriate compensation amount in the circumstances

would be £150. I think this more fairly reflects the impact on Mrs S.

My provisional decision

I'm currently minded to uphold Mrs S's complaint and direct Raylo Group Limited to take the following actions:

- End the hire agreement and remove it from Mrs S's credit file.
- Refund all payments made by Mrs S towards the hire agreement (including any deposit), adding 8% simple interest per year* to the refunded payments, calculated from the date Mrs S originally made them, to the date the refunds are paid.
- Pay Mrs S £150 compensation for the non-financial impact of its errors and poor service.

I'm aware RGL may already have taken some of these actions. If that's the case, they don't need to take them a second time.

*If RGL considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs S how much it's taken off. It should also give Mrs S a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Will Culley
Ombudsman