

The complaint

Mr T complains about a fixed sum loan agreement taken out with Sky UK Limited.

What happened

In February 2024, Mr T took out a fixed sum loan agreement with Sky, to pay for a brand new mobile telephone device. The delivery of the device was arranged for the day following the order. But, Mr T says this wasn't convenient. Sky say the device was placed on the courier's vehicle, but it was then taken back to the courier's depot.

The delivery was rescheduled twice more, meaning the courier was unsuccessful with their delivery on three separate occasions. However, around a week after the order was placed with Sky, the courier delivered the package to Mr T's home address. But, Mr T says that when he opened the package he found a packet of soap bars inside, instead of the device he was expecting. So, Mr T contacted Sky to complain.

In their response to Mr T's complaint, Sky said that the photographs of the package being delivered, show the package was intact and that it was sent to the correct address. Sky also explained that Mr T didn't have any evidence to support his view that the device wasn't in the package. So, they said Mr T remained responsible for the repayments due under the fixed sum loan agreement. Mr T didn't agree with Sky's response and brought his case to our service.

One of our investigators looked into Mr T's complaint and found that Sky hadn't treated Mr T fairly. He thought the security seal on the package looked as if it had been opened. The investigator was also persuaded by the evidence Mr T had provided.

So, he concluded that Sky should allow Mr T to end the fixed sum loan agreement and to remove any information about the loan, from Mr T's credit file. The investigator also asked Sky to refund all the repayments Mr T had made, and to add interest for time Mr T had been without the use of those funds.

Mr T didn't make any further comments. But, Sky disagreed with the investigator's findings and said the package had not been opened before it reached Mr T.

The investigator didn't change his conclusions and now Mr T's case has been passed to me to make a final 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.

The fixed sum loan agreement Mr T took out with Sky is a regulated financial product. Because of this, we are able to consider complaints about these types of agreements.

I'd also like to explain that where the evidence is incomplete or inconclusive, I reach my decision on the balance of probabilities. In other words, what I consider is most likely to have

happened in the light of the available evidence and the wider circumstances.

The evidence provided by Sky and Mr T

Both Sky and Mr T accept that the package was delivered to Mr T's home address at the end of February 2024. Mr T says he ordered the device from Sky and we have been provided with the courier's photograph, which demonstrates where the package was placed on Mr T's doorstep.

The crux of Mr T's complaint is about the contents of the package. So, I've thought about what the evidence shows to decide this case.

On the one hand Sky have sent us a copy of the courier's delivery photograph, which they say proves the package was intact and sealed, when it was passed to Mr T. They say the outcome of the courier's own investigation was that the device was delivered successfully and not reported as lost at their depot. Sky also say the device was activated around four weeks following the delivery, although they are unable trace the user of the device.

On the other hand, Mr T has provided us with several photographs of the packaging, as well as the packet of soap bars, he says were inside. I can see from the photographs where Mr T took all of the packaging and contents to a Sky store. I can also see where Mr T reported what had happened to a regulatory authority, and where he says he took his concerns to the police.

Sky's records show where Mr T raised concerns with them about the contents of the package, around thirty minutes after the delivery. And where the package went back and forth from the courier's depot on three separate occasions. I must also take into account that the device was activated on a network based outside of the United Kingdom.

Throughout his complaint with Sky and our service, I can see where Mr T has offered to help provide information and where he has maintained the repayments due under the agreement. Although I accept Mr T has made the repayments reluctantly and only to avoid any adverse information being recorded on his credit file.

Mr T hasn't mentioned that that he found the package from the courier to be opened at the point of delivery. Or that he suspected the package had been tampered with in some way.

Having looked at the courier's photograph of the delivery, I can see that the package was a brown cardboard box, inside which Sky say the device was placed. There is a black strip running along the centre of the box which seems to act as a security seal.

But, I can see from the photograph, where one part of the seal on the package, does not appear level with the seal on the opposite side. This can also be seen in the photographs provided by Mr T, taken after he had opened the box. I think this shows that the seal on the top of the box may have been disturbed before the delivery was completed.

Sky have explained that seal was cut and moved by Mr T, when the box was opened. But, all the photographs show multiple white labels, attached to the top of the package by the courier, before each attempted delivery. Each label was stuck over the security seal and remained intact. And I can see where Mr T opened the box and separated the seal in a different area.

So, on balance, I don't think the seal on the top of the box was disturbed by Mr T. I'm more persuaded it was likely the seal was compromised before the package was given to Mr T.

However, the photographs are only part of the evidence that I find support Mr T's side of the dispute. I think the short space of time it took Mr T to report his concerns to Sky and where he looked to involve a regulator and the police in this matter, show how serious he has taken what has happened.

In all the circumstances, I think Mr T's recollections of what happened after the delivery was made are very consistent and I find that what he has told and shown to us to be credible. Having thought about all the evidence and testimony combined, I'm persuaded by what Mr T has said and his actions to try and put things right.

On balance, I don't think the device was contained within the package delivered to Mr T's home address by the courier. So, I think it's unfair for Sky to hold Mr T responsible for the repayments due under the fixed sum loan agreement. I think Sky should offer Mr T a remedy. So, I've thought about how Sky should put things right.

The settlement of this complaint

I've found that it's unfair for Sky to hold Mr T responsible for the payment of the fixed sum loan agreement for the mobile telephone device. So, I think Sky should allow Mr T to exit the agreement at no additional cost to him.

In light of my conclusions, it follows that it's fair for Sky to now refund any repayments Mr T has made under the fixed sum loan agreement. Mr T has been without the use of those funds. So, I think it's also fair for Sky to add interest to the repayments Mr T has made. I think this should be at a rate of 8% a year simple from the dates the repayments were made, to the date of settlement of this complaint.

I acknowledge that Sky are likely to have recorded information about the fixed sum loan agreement, on the records held about Mr T with credit reference agencies. Against the background of my findings, I think it's fair for Sky to remove any information about the agreement from Mr T's credit file.

Putting things right

For these reasons, Sky UK Limited should:

1. Allow Mr T to exit the fixed sum loan agreement at no additional cost to him;
2. Refund all the repayments to Mr T, that he has made under the fixed sum loan agreement;
3. Add interest at a rate of 8% a year simple to part two of this settlement, from the dates the repayments were made, to the date of settlement of this complaint; and
4. Remove any information about Mr T's fixed sum loan agreement, from the details held with credit reference agencies.

Sky must pay these amounts within 28 days of the date on which we tell them Mr T accepts my final decision. If they pay later than this, they must also pay interest on the settlement amount from the date of final decision to the date of payment at 8% a year simple.

If Sky deducts tax from any interest they pay to Mr T, they should provide Mr T with a tax deduction certificate if he asks for one, so he can reclaim the tax from the tax authorities if appropriate.

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 T to accept or reject my decision before 24 April 2025.

Sam Wedderburn
Ombudsman