

The complaint

Miss K has complained about the way Telefonica UK Limited trading as O2 administered fixed sum loan agreements she'd taken out.

What happened

Miss K has two fixed sum loan agreements (device plans) with O2. She bought a watch using a three-year device plan in August 2022 for £252. And she bought a phone using a three-year device plan in February 2023 for £329.

O2 said Miss K's bills are produced on the 18th of each month and are due 14 days later. It said since May 2023 some direct debit requests for the device plan repayments were returned unpaid and that payments were made manually. O2 said the payments for the phone (and for her airtime contracts for both devices) have been made within the timescales to prevent adverse information being recorded on Miss K's credit file. But it said the device plan for the watch fell into arrears as payments due on 1 September 2023 and 1 October 2023 were not paid on time. It said it issued a notice of default for the watch device plan on 10 September 2023 asking for payment to be made by 28 September 2023 and as payment wasn't made it sent several letters over the next few weeks about the arrears.

O2 said the watch device plan and associated airtime were disconnected on 6 October 2023 but Miss K paid the £14 arrears balance, and the account was reconnected.

Miss K said she'd had issues making payments, but she'd agreed extensions with O2. She said there'd been times she'd tried to pay manually but had been unable to because the online service and telephone service wouldn't let her as it showed a direct debit for an old account was in place. She said she needed to pay manually because her income dates vary. She complained adverse information had been added to her credit file.

O2 sent a final response to say when a direct debit is in place a payment request is sent to the bank 3 or 4 days before the due date and that once requested with the bank it will show as paid online unless it's returned unpaid, which can take up to 24 hours. It said the reason it won't allow card payments to go through on the day the direct debit is being processed is to stop payments being made twice. It said it was Miss K's responsibility to know how and when payments are due. It said it couldn't see Miss K had asked to cancel her direct debit. And it said when making an arrangement to pay the bill late, although it would be aware of the late payment it could still be recorded on the credit file.

Miss K decided to refer her complaint to the Financial Ombudsman. When the complaint was referred, O2 said it could see some conflicting information given to Miss K about the direct debit arrangement, so it offered £75 compensation. And it reiterated Miss K could make manual payments since the direct debit was cancelled in December 2023. One of our investigators looked into things and ultimately concluded that O2 didn't act fairly in handling Miss K's account. He noted Miss K's account balance was just over £100 at the time, and he thought the fairest thing to do was to remove the adverse information and effectively compensate Miss K for the trouble and upset by clearing the balance of the device plan for the watch. He said the missed payment should be removed if O2 thought it appropriate.

O2 agreed to end the agreement and clear the balance as an alternative to its £75 offer. But it didn't agree to remove the adverse information. It said there was an arrangement for Miss K to make a repayment by 29 September 2023 but only her phone device plan and airtime were paid, and not the watch device plan. It said the payment for the phone device plan and airtime were paid on 6 October 2023, but the watch device plan remained unpaid. It said it took on Miss K's feedback about having issues making payment, but the other two payments were made. O2 said as the watch device plan wasn't brought up to date until 24 October 2023 it maintained its original decision because it was obliged to report a true reflection of how Miss K ran her accounts.

As things weren't resolved, the complaint has been passed to me to decide.

I decided to contact O2 to clarify a few things. I explained it seemed that the most relevant bills/payments for the complaint were:

£7 billed on 18 August 2023 and due on 1 September 2023
£7 billed on 18 September 2023 and due on 2 October 2023

Miss K agreed an extension for the August bill until 29 September 2023 but had an issue making a manual payment for the watch device plan on that day because she said an old direct debit was set up. She contacted O2 on the 29th to explain what issues she was having and to ask for help. She asked for help again throughout October and brought things fully up to date for the watch device plan on 24 October 2023. I wanted to know what adverse information had been recorded because Miss K (and O2) had been referring to a default. I also wanted to know if O2 would change the compensation offer to £100 direct to Miss K because the outstanding balance had changed since the investigator's assessment.

O2 explained that no defaults had been registered. It said the only adverse information for the watch device plan was one late payment recorded for the repayment due in September 2023, which was correct. It agreed to pay £100 compensation.

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 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 decide matters quickly and with minimum formality. But I want to assure Miss K and O2 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.

Miss K bought the devices using regulated fixed sum loan agreements, and our service is able to consider complaints relating to these sorts of agreements. But I'm not able to consider complaints that solely relate to the airtime contracts Miss K has with O2 so I won't be commenting on what happened with those.

Credit file reporting

O2 said it hasn't reported a default on Miss K's credit file. Although both O2 and Miss K have referred to a default, which I think has added to some of the confusion. O2 said only one repayment for September 2023 has been recorded as late – so this is what I've focussed on. The reporting of one missed payment is accurate because Miss K went that month without making the repayment. But, in line with the Information Commissioner's Office guidance,

reporting on credit files needs to be fair as well as accurate. So I've considered whether the reporting is fair.

It looks like Miss K did try to make the repayment due in September on 29 September 2023, but she had difficulty. As I explained to O2, it's not clear why she would have run the risk of adverse information being recorded for a £7 repayment, (particularly given her airtime bill and phone device agreement bills are significantly higher and were paid). On balance, I think Miss K ran into genuine difficulties trying to pay manually on the 29th because (like O2 mentioned in its final response) the account may have shown as up to date if the system thought a direct debit was being processed.

Even if that's not right, I'm also conscious Miss K told O2 she was unable to speak on the phone in September 2023, but she contacted it throughout the month (using online chat) to come to an arrangement to pay on the 29th. She wrote to O2 on the morning of the 29 September 2023 to say she was trying to make her repayment, but the account was showing the bill was paid. She asked for help through the online chat, but I think the agent was looking at a payment that was due in October 2023, and asked Miss K to contact it by phone. So I don't think the agent got to grips with what Miss K was trying to do. And I don't think Miss K should have been penalised for trying to use a communication channel other than having to phone in, particularly given the vulnerabilities she'd told it about. I think her account of what happened seems plausible and convincing.

On balance, I think had Miss K been supported on the call of the 29 September 2023, and if it was made as easy as I think it should have been, she'd likely have paid the £7 that was needed. Perhaps if O2 had seen what Miss K intended and arranged to cancel the direct debit sooner the problem could have been avoided. I think the adverse information should be removed because it's not a fair reflection of what happened. I understand the direct debit has now been cancelled which should mean Miss K can pay manually to avoid the issue.

Compensation

I also agree the way things were handled caused Miss K some overall upset and inconvenience. It must have been frustrating not to have been able to resolve things and upsetting to find out she had adverse information recorded on her credit file. O2 has also acknowledged Miss K was given some conflicting information.

I agree £100 compensation broadly seems fair. But seeing as though the balance of the loan account would have changed since our investigator sent his assessment, I'm pleased O2 has agreed to pay the compensation separately to Miss K direct. She can choose if she wishes to use it to clear the device plan.

My final decision

My final decision is that I uphold this complaint and direct Telefonica UK Limited trading as O2 to remove any adverse information from Miss K's credit file in relation to the August 2023 bill (due in September 2023). It should also pay her £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 12 November 2024.

Simon Wingfield
Ombudsman