

The complaint

Miss T has complained about the way Vodafone Limited administered a fixed sum loan agreement.

What happened

In January 2022 Miss T bought a phone using a fixed sum loan agreement (device plan) with Vodafone. The phone cost around £1,250 and it was to be paid back with £34 payments for three years.

Miss T said she fell into arrears on the device plan after an accident. She said she contacted Vodafone to explain what happened and that she'd been placed into emergency accommodation. She said she told Vodafone she had no way of having mail forwarded from her old address and that her email account was hacked so she lost access to her emails. She said she stayed in touch regularly with Vodafone, but she was having difficulty speaking to the team that dealt with her device plan. She was concerned about the impact of having a default recorded on her credit file because it could stop her from being able to rent a property. Miss T said Vodafone reassured her it wasn't going to default the agreement. She said she spoke to Vodafone in July 2023 to inform it she'd be clearing the balance, but she later found out a default had been recorded.

Miss T complained. She said Vodafone acknowledged she'd been in regular contact and was concerned about the default. Miss T said she wasn't given the chance to pay before the default and that she'd not received letters about it.

Vodafone reviewed things and said it was unable to uphold the complaint because it found no errors in its collection process. In its January 2024 response it said it hadn't received payment under the device plan since March 2023, so it thought the information recorded on the credit file was valid.

Miss T referred her complaint to the Financial Ombudsman and requested Vodafone remove the default.

One of our investigators looked into things. She said under Vodafone's terms of the device plan a billing address needs to be provided and there wasn't an option to completely remove a billing address. This is why Vodafone used the last address it had on file for Miss T. She also said if Miss T's email address wasn't accessible, she could have set up a new one. She noted Vodafone had used other forms of contact such as SMS and that Miss T would have had access to her online account to track payments.

Our investigator said Vodafone explained a promise to pay wouldn't necessarily mean the credit file wouldn't be impacted, and that Miss T was still required to make her contractual repayments. She thought Vodafone had given fair notification a default could be recorded and that she couldn't see it had told Miss T it wasn't going to do so. Overall, she didn't think Vodafone had acted unfairly.

Miss T didn't accept the findings. She said she understood the default process but highlighted she had no fixed address for mail to be redirected. She said Vodafone flagged her account as vulnerable and that she should have been notified of any correspondence by telephone. She explained she'd spoken to Vodafone regularly and that if she'd known about the default, she'd have taken steps to pay. She spoke to Vodafone after the default had been registered and it was too late. Her argument was that she regularly spoke to Vodafone and it was aware of her concerns. She felt like she didn't have a chance to avoid the default.

Our investigator put Miss T's points to Vodafone, and it said it wouldn't have been able to carry out collections activity by telephone, and it couldn't find evidence this was offered. It highlighted a default notice was sent and that around June or July 2023 Miss T was informed the debt had been passed to a debt collection agency. Vodafone said it couldn't see when Miss T logged into her online account, but even with an inactive email she would have been able to log in.

Our investigator put those points to Miss T. She wanted our investigator to listen to calls she had with Vodafone and said she'd never been asked for an alternative email address. She reiterated she was going through a really difficult time.

Our investigator highlighted terms that said Miss T was required to notify Vodafone of a change of email, and that it couldn't be responsible for not providing communication if it wasn't updated. She also said the payment plan she was making in July 2023 related to an airtime plan.

Miss T said all her communication was with the airtime department but was reassured this wouldn't have been an issue for her device plan.

Our investigator listened to calls from June and July 2023, but she couldn't see Miss T had said she was concerned about defaulting because she was unable to speak to the device plan team. She said Vodafone gave Miss T information about the device plan payments and arrears. She couldn't see Miss T told Vodafone she had no access to emails.

I issued a provisional decision that said:

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 decide the complaint quickly and with minimum formality. I want to assure Miss T and Vodafone 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 very sorry to hear Miss T has been through a lot. I can't imagine how she must have felt. But I thank her for taking the time to bring her complaint.

Miss T bought the phone using a fixed sum loan agreement from Vodafone. This is a regulated consumer credit agreement. And our service is able to consider complaints relating to these sorts of agreements. But, as has been pointed out, I'm not able to consider complaints that solely relate to the airtime contract Miss T has with Vodafone. So I'm not going to be commenting on any issues Miss T had with regards to her airtime.

There were some historical complaints and arrears, but I'm focussing on the complaint raised that led to the January 2024 final response letter. This is primarily in relation to the default that's been recorded.

I've looked at the written communication around the time the default was applied. Vodafone wrote to Miss T on 4 June 2023 with a notice of sums in arrears saying she had £68 of missed payments. It wrote again on 20 July 2023 with a default notice to say the total amount outstanding was £102 and it needed to be paid by 7 August 2023. And it sent a termination notice on 9 August 2023 because Miss T hadn't cleared the outstanding balance. It said the total amount payable (£714) was therefore due.

I wrote to Vodafone to ask when the default was applied. I explained I'd listened to the 24 July 2023 call between Miss T and Vodafone because I thought this was likely the most relevant given the 20 July default notice said payment needed to be made by 7 August 2023. I said I thought Miss T could have been given better help on this call. She'd phoned up specifically with the intention to discuss the airtime and device plan. She explained she was in a vulnerable situation but wanted to avoid a default on the device plan. She wanted to know what she could pay, and then wanted to clear the balance in September. While the advisor listened to what Miss T was saying, she essentially said there was nothing she could do about the device plan and that Miss T would simply need to wait to hear from a debt collection agency, but that she'd be able to sort out a payment arrangement through it. I thought what she ought to have explained was that Miss T had until 7 August 2023 to pay the arrears (or come to an arrangement), or the agreement would be defaulted as per the default notice, and she'd end up owing the full balance. I thought there was an opportunity missed to help better inform Miss T.

Overall, I thought Miss T ended the call thinking she'd receive a call from a debt collection agency, and she'd be able to come to an arrangement to pay without a default being recorded. However, I explained it wasn't clear if Miss T was better informed that she would have avoided the default. Finally, I also wanted to know why it took until January 2024 for Miss T's complaint to be answered given she'd said she was unhappy shortly after the default was recorded.

Vodafone responded to say the default was applied to Miss T's credit file on 21 August 2023. It referred to previous complaints, and airtime complaints Miss T raised. But it said the advisor wasn't wrong on the 24 July 2023 call because Miss T had let it know she couldn't make payment until September, which was after the default could have been avoided. It said it didn't have the option to pause payments for loan agreements or delay the default. Miss T had already been granted breathing space, and it couldn't offer this again within 12 months.

I've thought about Vodafone's decision to default the agreement. From what we've been told, the default was applied in August 2023. This is the sort of process a firm is supposed to follow when customers are at least three months in arrears. So, on the face of it, the recording of the default doesn't seem unreasonable as Miss T was at least three payments behind at this point. But I think if things had gone as I think they should have done, rather than the agent leaving Miss T thinking she simply needed to speak to a debt collection agency, I think she ought to have been very clear that the default would be recorded unless payment was made by 7 August 2023. As I said, Miss T may not have been able to prevent that, but at least she would have been better informed. I don't think it was made as easy as it should have been for Miss T to deal with the device plan experts.

I'm also conscious that Miss T didn't make payment even after the default had been applied. And she's recently told us she agreed to make token payments towards the debt. When token payments are made towards the debt, I think this is reflective of an account that has defaulted. So even though I think Miss T could have been better informed prior to the default being applied, I don't think overall she's been put in a worse financial position through that. Based on what we know happened afterwards, the account has defaulted, and so there aren't grounds to direct Vodafone to remove it. And it would put Miss T in a worse position if I were to say the default date ought to be pushed forwards.

I've also thought about what Miss T has said about not being informed of the risks of having a default applied. But, like our investigator pointed out, I think it was up to Miss T to notify Vodafone how it should contact her. There's a responsibility for Miss T to maintain her account. And Vodafone used various contact methods to reach Miss T. So I don't think Vodafone acted unfairly in that regard. And I've not seen that it promised to notify Miss T about all communication by telephone.

Overall, as I said before, I'm sorry to hear what Miss T has been through. But I don't have the grounds to direct Vodafone to remove the default because it's an accurate reflection of how she's been able to run the account. It's only fair to acknowledge Vodafone did take steps to help Miss T, such as giving forbearance. I do however think Vodafone missed some opportunities to better inform Miss T. She was trying hard to avoid the default. It's clear that was really important for her. And I think it would have come as a shock to her when it was applied, at what was already a vulnerable time. I think Vodafone took longer than it ought to have done to respond to Miss T's concerns. And I'm conscious that rather than sticking to rigid processes, it was required to understand Miss T's individual concerns and treat her with forbearance and due consideration. I think it should've been easier for Miss T to be able to speak to the department that was fully equipped to deal with her device plan queries. In the round, while I don't think Vodafone needs to remove the default, I'm intending to direct it to pay Miss T £150 to reflect that it could have handled things better.

Vodafone didn't have anything new to add. Miss T responded to say she didn't argue Vodafone hadn't followed the correct procedure with regards to the default but her circumstances at the time were exceptional. She said other financial service providers had treated her fairly, and that if she'd been residing at her old address and had received the default notice, she could have cleared the balance in time. She said there wasn't one call with her and Vodafone where she didn't express her concerns about being able to speak to the device plan department and her worry of a default.

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'd like to thank the parties for their responses. Once again, I do want to say I'm very sorry to hear about what Miss T has been through. But neither party has submitted anything materially new for me to consider so I see no reason to depart from the conclusions I reached in my provisional decision.

I accept Miss T was very concerned about a default, and I've highlighted I thought Vodafone could have been fairer at the relevant time prior to registering a default. But in line with the industry guidance, defaults are generally recorded where customers are between 3 and 6 months in arrears. And making token payments is generally a sign the agreement between the parties has defaulted. So even if Vodafone had acted fairer and gave Miss T clearer information about the default, there's a good chance the default would have still been recorded at the time. And even if I'm wrong about that, for example if Miss T did clear the arrears in time, I think the default would have been recorded subsequently based on the way Miss T went on to repay her account, as I've set out in my provisional decision. So I don't find there are grounds to direct Vodafone to remove the default. But, for the reasons given, I think it should pay £150 compensation.

My final decision

My final decision is that I uphold this complaint and direct Vodafone Limited to pay Miss T £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 5 December 2024.

Simon Wingfield
Ombudsman