

The complaint

Miss A complains about a fixed sum loan agreement, taken out with Sky UK Limited to buy a brand new mobile telephone device.

Throughout Miss A's complaint with our service, she has been represented by a family member. But for ease, I'll just refer to Miss A.

What happened

In December 2023, Miss A took out a fixed sum loan agreement with Sky, to purchase a brand new mobile telephone device (Device One). However, shortly after ordering Device One, Miss A says she changed her mind. So, she called Sky and took out a further fixed sum loan agreement for a subsequent brand new device (Device Two). Both devices were due to be delivered in separate packages, the day after the order was placed.

As she no longer wanted Device One, Miss A says she was told by Sky to decline the package from the courier. She says the courier was to then return Device One to Sky. Additionally, Miss A says she was told to simply accept the second package, containing Device Two.

On the day of delivery, Miss A says she declined to accept the package containing Device One and the courier took it away. She says the courier didn't give her a receipt. But, Sky say both packages were delivered by the courier to Miss A and that Device One wasn't returned. So, Miss A complained to Sky and said she didn't want to pay for something she didn't have.

In their final response to Miss A's complaint, Sky said they didn't have any evidence to show where the delivery of Device One was declined. So, they said Miss A was responsible for the repayments due under the fixed sum loan agreement. Miss A didn't agree and brought her complaint to our service.

One of our investigators looked into Miss A's case and found that Sky had treated Miss A fairly. He listened to the telephone calls between Sky and Miss A and found some inconsistencies in what Miss A had said about the delivery. And after looking at the courier's records of the delivery, he concluded that it was fair for Sky to hold Miss A responsible for the repayments due to the loan for Device One.

Miss A didn't accept the investigator's findings and said she didn't open any package, before calling Sky to raise her concerns. And it was likely the device was still with the courier.

The investigator didn't change his conclusions, so Miss A's case has now 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.

Device One was paid for using a fixed sum loan agreement with Sky. This is a regulated

consumer credit agreement, and our service is able to consider complaints relating to these sorts of loans.

In cases like Miss A's, 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.

Miss A has explained to us that she followed Sky's advice about declining one of the packages from the courier. She says the courier didn't wait for her to check which box contained Device One and took a photograph of both packages, before she could say anything. Miss A says the courier's photograph of the delivery doesn't show what actually happened.

On the other hand, Sky have said that the courier's photograph shows where both packages were accepted by Miss A and that Device One was unlocked and activated shortly after the delivery. Additionally, Sky have sent us the courier's notes which show both packages being delivered to Miss A and where Device One wasn't returned to the courier's warehouse. Sky have also provided recordings of five telephone conversations between them and Miss A, where the delivery is discussed and Miss A raised her concerns.

I've listened to the telephone call recordings between Miss A and Sky from late December 2023 onwards. Having done so, I can hear where on the day of delivery, Miss A called Sky and amongst other things, she confirmed she had received Device One. The telephone call recordings also show where Miss A called Sky again on the day following the delivery, and asked about how to return Device One.

Finally, during a call in early January 2024, I can hear where Miss A told the advisor that she had now received Device Two. However, in this call Miss A also tells the advisor that she had declined the delivery of Device One. She goes on to say that she had sent it back with the courier in December 2024. So, I think Miss A's recollection in this telephone call was different to what she said, when she called Sky a few days beforehand.

Having considered everything, I think there are some inconsistencies with what Miss A has told us. I also think the courier's notes and photographs support Sky's side of the dispute. Against this background, I find Sky's evidence more persuasive in deciding Miss A's complaint about the delivery of Device One.

On balance, I don't think Sky are acting unfairly by deciding that the most likely thing to have happened, is that Miss A took delivery of Device One. Therefore, I don't find I have the grounds to direct Sky to stop pursuing Miss A for the outstanding repayments owed under the loan.

I'm aware that following my findings, Sky may start to contact Miss A to make arrangements for the repayment of the balance of the loan. In doing so, I remind Sky of their responsibility to treat Miss A's financial circumstances with due consideration and forbearance.

This may mean, amongst other things, Sky carefully considering Miss A's income and expenditure to put together an affordable repayment plan, if she needs such an arrangement.

My final decision

My final decision is that I don't uphold Miss A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept

or reject my decision before 28 April 2025.

Sam Wedderburn
Ombudsman