

## **The complaint**

Mr P complains about the balance owed under a fixed sum loan agreement taken out with EE Limited.

## **What happened**

In September 2024, Mr P took out a fixed sum loan agreement with EE to pay for a brand new mobile telephone device. The cash price of the handset was around £1,100 and under the agreement, Mr P was scheduled to make monthly payments of about £30 over a three year period.

A couple of days after Mr P signed the agreement forms, EE's courier attempted to deliver a package which they say contained the handset. But, the courier couldn't complete the delivery, so the package was sent back to their depot. However, the following day, the courier successfully delivered the package to Mr P's home address. Mr P says the package was taken in by a family member, and given to him when he returned home from work later that evening.

Upon opening the package, Mr P says he discovered the box that would normally hold the handset was empty. So, Mr P contacted EE to raise a complaint. Mr P explained to EE that the security seal on the device box had been removed. He also said that when he looked more closely at the outer plastic packaging, he noticed that the address label appeared to have been removed and then reapplied.

After reviewing Mr P's concerns, EE told him that the courier had confirmed the package was delivered to the correct address, and that his family member had used the correct security code, to allow them to hand the package over. So, EE continued to hold Mr P responsible for the repayment of the fixed sum loan agreement. Mr P didn't accept EE's response and brought his complaint to this service. Mr P also says he tried to report what had happened to the police.

One of our investigators looked into Mr P's complaint and found that EE had treated Mr P fairly. She looked at the images both Mr P and EE had provided, but couldn't see any signs of tampering. The investigator also considered the weight of the package when it was passed from EE to the courier and at when the handset was activated.

Overall, the investigator was persuaded the device was in the package delivered to Mr P. So, she concluded that it was fair for EE to expect Mr P to make the repayments due to the loan.

Mr P didn't agree with the investigator's findings and said both the outer package and the device box were damaged, before he tried to open them. Mr P also said that EE had delayed putting a bar on the usage of the handset, which could have helped their review.

The investigator didn't change her conclusions and Mr P's complaint 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.

This case is about a fixed sum loan agreement with EE, used to pay for a mobile telephone handset in Mr P's name. This is a regulated financial product. As such, we are able to consider complaints about it.

In cases like Mr P'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.

### *The delivery of the package*

EE have sent us their records of the delivery of the package to Mr P's home address. I can see from those records where the initial attempt to deliver the package was unsuccessful. Mr P says this was because EE tried to deliver the package to a different house, near to his home.

The courier's notes of the first delivery attempt don't detail the reasons why it failed, so I cannot see what the issue was. Therefore, I've considered the whole journey of the package and the photographs we have, to decide if I can place any significance on the initial failed delivery and the condition of the package.

Within their submissions to us, EE have said that the device box containing the handset for Mr P, was weighed at their warehouse. They say this happened to securely control the stock leaving their warehouse, and because their courier needs to make logistical plans of how many parcels to load on to any particular vehicle.

I've carefully considered EE's records about the weight of the package when it was handed to the courier and the recorded weight on the package itself. I've also thought about EE's comments and records of their stock control relating to Mr P's order. Having done so, I think EE have demonstrated where the device box was placed into the outer package and weighed before it was given to the courier. On balance, I think it's likely the handset was in the device box when it left EE's warehouse.

When the courier successfully delivered the package on the second attempt, EE's records show that it was taken in at Mr P's home address by a third party. Mr P has explained that this was a close family member, who had access to a code, used by the courier to securely hand over the package. Mr P says he then opened the package when he returned home around eight hours later.

While I acknowledge where Mr P says the package was taken into his house by a close family member, I need to keep in mind that Mr P himself didn't have an opportunity to take possession of it straight away.

Mr P also says the address label on the outer plastic package appeared to have been removed and reapplied, when he returned home from work.

EE's records of the delivery contain a photograph of the package outside Mr P's home address. I can see from the image that it was placed on the floor at the feet of a person standing outside a doorway. The package appears to be intact. Furthermore, I cannot see any signs of it being opened, or anything unusual about the address label. However, EE's records are not of a close up image of the package. So, I accept not every detail about its

condition can easily be seen.

During our investigation, Mr P provided us with his own images of the package. These were taken after Mr P had opened the outer plastic packaging and the device box itself. Mr P says that as well as his concerns over the address label, the seal was missing from the device box.

I'm aware that Mr P's photographs won't show the condition of the package or its contents, when it was handed to Mr P's family member earlier in the day. This is especially true of the seal on the device box, given it was concealed inside. But, having looked at the address label, I don't think Mr P's images show where it was damaged or reapplied.

After considering both sets of images, I'm not persuaded that the package was opened or tampered with, before it was delivered to Mr P's home address. So, I think the failed first delivery attempt was simply just that. Rather than any attempt by a third party to cause a delay, in order to access the package.

### *The reporting of Mr P's concerns*

Mr P has explained to us that he contacted EE as soon as he realised the handset wasn't in its box. I can see from EE's records that Mr P contacted EE on the same day as the delivery, albeit much later that evening. I find Mr P's reasons for the time taken to open the package reasonable and he has been consistent with this throughout his complaint.

I can also understand why Mr P has maintained his repayments towards the fixed sum loan agreement. He says it is linked to other services provided by EE, whereby he makes one regular payment, for all of his products with them. It follows that Mr P would not want to cause problems with the other services he relies upon.

After first reporting things to EE, Mr P says he contacted an advice service and tried to report a crime with the police. He says the police couldn't start any investigation, due to the type of dispute involved.

I've not seen any correspondence to demonstrate where Mr P reported what had happened to the police. Although I accept he may have done so face to face, rather than by using email. Neither have I seen where Mr P may have reported what happened to his insurer, or the national fraud reporting centre. That is not to say Mr P was expected to take this action. But, where I need to weigh up all the evidence, I think it's relevant to consider the steps open to Mr P.

For contrast, I've also thought about EE's actions, once they became aware of Mr P's concerns. I can see that EE placed a bar from any further use of the device on a UK network, around two weeks after Mr P had reported things. I agree that EE could have acted sooner here, to give Mr P peace of mind.

But, I don't think this has an impact on my findings as to the fairness of EE's decision to hold Mr P responsible for the repayment of the fixed sum loan agreement. I say this because Mr P's complaint is about the contents of the package, rather than the airtime services costs accrued from any potential usage of the handset.

### *Summary*

I've thought about all the evidence in Mr P's case. Overall, I think the images and records of the delivery of the package are persuasive. I also think EE's records of the weight of the package supports their view that the handset was likely delivered to Mr P.

I do of course empathise with what Mr P says. Afterall, he is paying for a handset, which he says he didn't receive. But, in very individual circumstances of this complaint, I don't think the images show where the package was opened or tampered with, before it arrived at Mr P's home address.

Having considered everything, I think the courier's records and photographs support EE's side of the dispute. Against this background, I find EE's evidence more persuasive in deciding Mr P's complaint about the contents of the package delivered to his home address.

Overall, I don't think EE are acting unfairly by deciding that the most likely thing to have happened, is that the device was in the package. Therefore, I don't find I have the grounds to direct EE to stop pursuing Mr P for the outstanding repayments owed under the loan.

I realise that my conclusions mean there may still be an outstanding balance owed by Mr P to EE. So, I remind EE of their responsibility to treat Mr P's financial circumstances with due consideration and forbearance. This may mean looking at Mr P's income and expenditure details to talk about the options they are able to offer to him, if he needs support with the repayments.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 8 October 2025.

Sam Wedderburn  
**Ombudsman**