

The complaint

Mr D complains Experian Limited have discriminated against him and breached the Equality Act 2010 when dealing with his requests for access to their service.

What happened

Due to Mr D's disabilities, when he calls Experian he's unable to complete their Interactive Voice Recognition (IVR) system, and rather than the system putting him through to someone, it ends the call. Mr D says this is discrimination. Mr D also raised concerns about phone calls not being provided to him when he asked.

Experian say they're not able to change the IVR at this point, as it's fully built into their phone lines and they can't switch it on and off for one customer. But, as an adjustment, while Mr D is a CreditExpert subscriber, he can call their complaints line. Experian said when he calls the complaint line, he can get through to an agent, and either quote his name or a reference number they've given him – and then the agent will know to transfer him through to the right team.

Unhappy with Experian's answer, Mr D asked us to look into things. One of our Investigators did so and discussed with Experian what had happened to Mr D's call requests. Experian said the calls were requested on 15 August 2024 through a Subject Access Request (SAR), there were some issues sharing them, but on 23 September 2024 they emailed him asking if he needed them in a different format. Experian said Mr D didn't reply, but they sent him a passkey on 28 September 2024, and Mr D used this to access the calls two days later.

Our Investigator put a further point Mr D had raised to Experian – about Mr D being unhappy Experian record calls. Experian said they record all calls, and this isn't something they can turn off for one customer.

Ultimately our Investigator didn't uphold Mr D's complaint. He felt Experian had offered a reasonable adjustment, and that Mr D didn't specify how he wanted the call recordings in the SAR sent to him – but Experian were happy to look at options for getting them to him securely.

Mr D didn't accept this. I've summarised what I consider to be his key concerns in my own words:

- He believes Experian have broken the law
- A specific individual at Experian has broken the law
- He'd like the contact details of the head of the department of the person who broke the law and / or the head of compliance at Experian
- He's also said his option of taking this matter to court has timed out

Because Mr D didn't accept our Investigator's outcome the complaint's been passed to me to decide – and I do just want to reassure Mr D I have listened in full to the whole call he had with our Investigator.

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.

Have Experian breached the Equality Act 2010

I'm not able to decide if Experian have or haven't discriminated against Mr D or if they have breached the Equality Act 2010. As our Investigator explained, if Mr D wants that judgment he'd have to take the matter to court – similarly, if he thinks an individual has broken the law he'd have to ask the court to consider that. What I can do is look at whether he's been treated fairly in the circumstances of what happened.

I've noted Mr D's concerns that he's now out of time to take this matter to court. That isn't something I'm able to comment on much because I'm afraid I'm not too familiar with these matters – but the Citizens Advice Bureau says the court can allow a claim outside of the six-month time limit if the court considers it "*just and equitable to do so*". I have no ability to advise Mr D on whether any claim he attempted to make would be successful – but he may wish to explore this option. As my remit is to decide matters on a fair and reasonable basis, I'll go ahead and consider things through that lens.

Mr D wants Experian to alter their process so that he, and others, don't have to go through the IVR when calling in.

Experian are required to make reasonable adjustments, but I don't think this would qualify as a reasonable adjustment. Experian can't provide Mr D with less of a service due to his needs, but also aren't required to provide him with a bespoke process.

So, I've looked at what Experian have offered, to see if I'm satisfied that's a reasonable adjustment.

The solution Experian have offered is, while Mr D is a CreditExpert subscriber, he's able to call a specific phone number – and get through to the relevant team. Although I appreciate Mr D wants the phone line changed, I do think the alternative Experian have offered resolves the issue he initially raised – which is he just wants to be able to get through and speak to someone rather than being put through an IVR or other automated system which requires him to type.

Because of that, I'm satisfied Experian have treated Mr D fairly and taken into account his concerns.

Provision of the SAR

Turning now to the SAR, I can see Experian did explicitly ask Mr D how he wanted the phone calls sent to him – and he didn't answer them. In the circumstances, I'd expect Experian to use their standard process for sending out a SAR. As I've noted above, Mr D has the ability to call Experian, so he may wish to contact them and ask them to resend the calls in a way that's more suitable for him. If he has further issues, then he'd be entitled to raise a new complaint about this.

Other issues

I've noted all the calls Mr D had with Experian regarding this issue. I can see our Investigator explained each call in detail in his outcome, so I don't think it's needed I do the same. What I will say is I think each person attempted to help Mr D with the issues he was raising. So, I've no concerns over the way Experian spoke to Mr D.

I'm aware Mr D is also concerned Experian record calls, and he says this is a data protection breach. Experian have said they tell customers they record calls when they first call in.

Again, I can't decide if this is a data protection breach, most likely only the Information Commissioner's Office (ICO) could decide that. But, Mr D has more likely than not consented to Experian holding his data by signing up to their CreditExpert service. I also don't think it's particularly unusual or out of step for Experian to record calls – indeed Mr D has utilised that by asking for copies of the calls he had with Experian.

I've noted Experian's comments, but I'm not sure if their IVR process, which Mr D can't complete, means he's never been notified Experian record calls. Again though, if Mr D thinks this isn't acceptable and / or a breach of his data, he can ask the ICO to investigate. I say that because, even if Experian haven't been able to tell Mr D they record calls, it's so commonplace that organisations record calls I don't think there has been any detriment to Mr D in them doing so.

Finally – I've noted Mr D wanted us to notify the Financial Conduct Authority (FCA) of this issue, and for him to be given the head of department / compliance at Experian's details.

In terms of the FCA, if we find systemic issues then we'd potentially make a referral to them, but this wouldn't be something we share directly with consumers – Mr D is welcome to speak to the FCA directly if he wishes to.

In respect of the head of department / compliance at Experian I'm afraid those aren't details I have. But, in any event, within the boundaries of what I can consider I've found Experian haven't done anything wrong. As I mentioned earlier, if Mr D wants to take things further, he may wish to seek legal advice about his options, though I take his point he may be time barred from doing so.

My final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 25 March 2025.

Jon Pearce
Ombudsman