

Complaint

Mr A has complained about loans Vodafone Limited ("Vodafone") provided to him. He says that he shouldn't have been provided with so many agreements and that it was irresponsible for Vodafone to do so.

Background

Vodafone entered into eight credit agreements, in order to facilitate the purchase mobile phone handsets, with Mr A. As far as I can see his lending history with Vodafone is as follows:

Agreement	Date	Item	Amount	Repayment
1	November 2021	Phone	£612	£17 for 36 months
2	November 2021	Phone	£612	£17 for 36 months
3	September 2022	Phone	£720	£20 for 36 months
4	September 2022	Phone	£900	£25 for 36 months
5 ¹	January 2023	Phone		
6	January 2023	Phone	£720	£20 for 36 months
7	February 2023	Phone	£1,188.00	£33 for 36 months
8	February 2023	Phone	£1,188.00	£33 for 36 months

In September 2023, Vodafone terminated agreements 1, 3, 4, 6, 7 and 8 and reported defaults to credit reference agencies. It took similar action in relation to agreement 2 in October 2023.

Mr A complained to Vodafone, around the time Vodafone defaulted his agreements, saying that it irresponsibly provided him with the funds to make these purchases. Vodafone didn't agree with Mr A's complaint. It didn't think that it had done anything wrong when entering into the agreements with Mr A. Nonetheless, it agreed to waive £157.68 in airtime that was owed.

Mr A's complaint was allocated to one of our investigators, who notified that Vodafone that Mr A had said he would be prepared to accept a reduction of 50% of the total amount he owed in order to resolve his complaint. Vodafone agreed to reduce the amount Mr A owed on agreements 3 and 4 by 50%. It also said that it would clear the entire balance owed on agreements 6, 7 and 8 provided Mr A returned the handsets. Mr A did not accept the offer and asked our investigator to issue an assessment.

One of our investigators reviewed what Mr A and Vodafone had told us. And she thought that Vodafone shouldn't have entered into any of the agreements from the second onwards. She thought that not only should the balances be reduced from agreement 3 onwards but that Vodafone should need to remove the defaults from Mr A's credit file and instead report that the agreements the second one onwards were in payment arrangements.

¹ Loan 5 was cancelled within the cancellation period and without Mr A making any repayments.

Vodafone disagreed with our investigator's assessment. Furthermore, it decided to withdraw its offer. As the parties have not been able to agree, the case was passed to an ombudsman for review.

My provisional decision of 24 February 2025

I issued a provisional decision – on 24 February 2025 - setting out why I was not intending to uphold Mr A's complaint.

In summary, I wasn't intending to uphold Mr A's complaint because I while it was possible that Vodafone should not have entered into some of these agreements with Mr A, I wasn't persuaded that it needed to take any further action.

The parties' responses to my provisional decision

Neither party responded to my provisional decision or provided anything further for me to consider ahead of my final decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, including what has happened since my provisional decision, while I accept that it is possible that Vodafone did not act fairly and reasonably when entering into some of these agreements with Mr A, I'm still not persuaded to direct it to take any action. I'll explain why in a little more detail.

We've explained how we handle complaints about irresponsible and unaffordable lending, including what we typically expect a lender to put things right should we consider that it failed to act fairly and reasonably, on our website. And I've used this approach to help me decide Mr A's complaint.

Our typical approach to putting things right in irresponsible lending cases

In the first instance, it might be helpful for me to explain that where a business provided a credit that would have resulted in unaffordable payments for a borrower, we'd typically expect it to put the consumer in the position they'd be in now if they hadn't paid any interest and charges on that credit.

This would see the customer repay the funds that they borrowed and had the use of (or return the goods they had the use of), but we'd normally expect the lender to refund (or remove) any interest and charges that were added. And if those interest and charges were paid also add 8% simple interest per year.

This usually balances the fact that lender shouldn't have lent to the consumer against the fact that the consumer will have received some benefit from the decision – in terms of having funds (or the use of goods) they wouldn't have had and having spent funds which, in many cases, they may well have known they were unlikely to be able to repay.

The position in Mr A's case and is there a reason to depart from our typical approach

In this case, Mr A entered into interest free agreements with Vodafone. Therefore, he wasn't required to pay any interest and charges on any of these agreements. So there aren't any

interest and charges to remove from Mr A's balances and he is already in the capital position I would direct a lender to place him in, if I were to agree that he had been provided with credit in circumstances where he shouldn't have been.

That said, we do look at each case individually and on its own particular merits. While we do have a general approach to how we might tell a lender to put things right where it provided a credit that it shouldn't have, we can and will sometimes tell it to do something different. So I could tell Vodafone to do something more if a strong reason to depart from our general approach exists and it would be fair and reasonable to do something else in the circumstances of that individual case.

Mr A effectively argues that what he should have to pay Vodafone should be reduced because it shouldn't have lent to him in the first place. While I appreciate that Mr A has provided a number of reasons why Vodafone shouldn't have lent to him, these are arguments over why I should uphold his complaint. And these arguments simply take me to a position where I'd agree he shouldn't have been lent to in the first place. I don't think that these reasons provide sufficient justification for me to depart from our typical approach in this instance.

Mr A had the benefit of the phones that Vodafone financed and I would need to account for this in any determination of what is fair and reasonable in all the circumstances of this case. It's also worth noting that Vodafone agreed to reduce the amount Mr A has to pay to 50% of the amount lent on agreements 4 and 5 as well as writing off the balance on the last three agreements, provided Mr A returns the handsets.

I understand that Mr A says that he cannot return the handsets because they have either been broken, stolen or given away. While I accept that this may be the case, I don't think that this means that Vodafone should write off the balances without the phones being returned.

Finally, I've also thought about what Mr A has said about Vodafone not being held to account for its irresponsible lending. In the first instance, I'm not necessarily persuaded that Vodafone is going to be in a position where it hasn't suffered any consequences. It is going to be limited to only recovering the amount it lent and even then it is going to take some time for Mr A to repay these funds, if he's even able to do this at all.

In any event and most importantly, I think it would help for me to explain that it isn't for this service to punish Vodafone. As I've explained, any direction to put things right would need to address Mr A's loss. And it wouldn't be fair and me to require Vodafone to go further than I would expect a lender who lent irresponsibly to, simply because there are no interest, fees and charges for it to refund.

I know that Mr A believes having a balance to repay doesn't address any wrong that might have occurred. But, for the reasons I've already explained, I'm satisfied that it does. And whether or not it also deters Vodafone from lending in similar circumstances in the future, is not a relevant consideration to my determination of what is fair and reasonable in all the circumstances.

So overall irrespective of whether Vodafone should have provided agreements 2 to 4 and 6 to 8 to Mr A, I'm satisfied that even if I were to uphold Mr A's complaint on this basis, I wouldn't direct Vodafone to reduce Mr A's balances, or require it write off Mr A's debt.

Nonetheless, I note that Vodafone has retracted its offer (of reducing the balance on agreements 3 and 4 and writing off the balances on agreements 6 to 8 provided Mr A returns the phones) as a result of disagreeing with the investigator's findings on agreement 2.

However, Vodafone appears to accept that it shouldn't have provided agreements 3 and 4 and agreements 6 to 8 to Mr A.

I certainly can't see any revised explanation on why it believes it did not enter into those agreements irresponsibly. All it has done is refer to why it didn't think that it had done anything wrong in relation to agreement 2. So I would urge Vodafone to reconsider this matter. This is particularly if Mr A is now able to return the handsets for agreements 6 to 8 and bearing in mind what I've said about the likelihood of Vodafone, in any event, getting the full amount of what it lent back from Mr A.

Should Vodafone remove the defaults it has recorded against Mr A

As well as being unhappy with the amount that Vodafone is requiring him to repay, Mr A is also unhappy that Vodafone has recorded defaults (on accounts 1 to 4 and 6 to 8) against him. Our investigator told Vodafone that it should remove the defaults that it has recorded in relation to agreements 2 to 4 and then 6 to 8 and instead report that Mr A is in arrangements to pay on these agreements.

I've carefully thought about what's been said. In doing so, I fully appreciate why Mr A is unhappy with Vodafone recording these defaults on his credit file and why he's worried about the impact this will have going forward. However, a default is registered by a lender against a borrower to make it clear that the relationship between the lender and the borrower has broken down.

A default is typically recorded when the arrears on an agreement have reached a point – usually when between three and six months of worth of arrears have built up – where there is no reasonable prospect of the customer being able to return to performing their obligations in line with the original agreement.

In this case, Mr A had not only missed a number of payments on his agreement, the information I've seen indicates that he has since entered into a debt management plan. As part of this plan, Mr A is only paying a total of £5 a month to Vodafone. This is not only less than a single monthly payment due on any of these agreements, it also means that Mr A is paying the equivalent of less than £1 a month to each of the balances.

Furthermore, for the reasons I've explained in the previous section, balances will remain on Mr A's agreements even after his complaint has been considered. So asking Vodafone to remove these defaults will effectively see it needing to record that there are no longer any balances to repaid (in circumstances where I've already explained why it would be fair and reasonable for it to be), or that its relationship with Mr A hasn't broken down. This will not reflect the actual position going forward.

I've also considered whether it would be fairer for Vodafone to remove the defaults and instead report that Mr A is in arrangements to repay these agreements. But the reality here is that Vodafone and Mr A haven't reached an arrangement for Mr A to clear his arrears and bring his accounts up to date. What has happened is that Mr A is making payments to a debt management plan and the debt management company is passing on amounts which aren't really making any meaningful reductions in what Mr A owes Vodafone.

I'd also add that if Mr A continues repaying what he owes through similar contributions from his debt management plan, he will be in this 'arrangement to pay' for far longer than the six years these defaults will remain on his credit file. Equally, if I were to require Vodafone to remove the defaults and instead record arrangements to pay, it could simply issue further notices of defaults and then default the accounts, if Mr A is late on or misses a single

payment. This would result in the six years that a default could be recorded for starting again and in my view this would have a more detrimental impact on Mr A going forward.

I'm therefore satisfied it is fair and reasonable for these defaults to remain for, at least, the period Mr A has outstanding balances. Vodafone removing this information would require it recording information that doesn't reflect the position Mr A is in. In my view, recording such information would not only be inaccurate but it would also arguably be counterproductive and not in Mr A's interests or that of any future lender, as a future lender would not be able to take what Mr A owes Vodafone (or the third-party debt purchaser) into account in any decision on whether to lend to Mr A.

Should Mr A consider that it would be fair and reasonable for the defaults, or any other adverse information to be removed, if and when he repays the outstanding balances, this is a matter that he should take up with Vodafone at that point.

In reaching my conclusions, I've also considered whether the lending relationship between Vodafone and Mr A might have been unfair to Mr A under s140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've already explained, I'm satisfied that it would not be fair and reasonable for me to require Vodafone to do what Mr A has requested bearing in mind all of the circumstances. And I haven't seen anything to suggest that s140A CCA would, given the facts of this complaint, lead to a different outcome here.

Overall and having considered everything, while I would strongly encourage Vodafone to reconsider its retraction of its offer, I'm not requiring Vodafone to reduce Mr A's balances or remove the defaults it has recorded against him. I'm therefore not upholding Mr A's complaint. I appreciate this will be very disappointing for Mr A. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained above and in my provisional decision of 24 February 2025, I'm not upholding Mr A's complaint.

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

Jeshen Narayanan
Ombudsman