

The complaint

Mrs A complains about the outstanding balance owed under a fixed sum loan agreement she has with Sky UK Limited.

What happened

In October 2023, Mrs A took out a fixed sum loan agreement with Sky, to buy a brand new mobile telephone device. The cash price of the device was £792, and Mrs A was scheduled to make monthly payments of around £20 over a three year period.

About five months later, Mrs A says the device developed a fault, whereby she was unable to turn it on. So, she contacted Sky to arrange for an inspection and repair. However, Sky returned the device to Mrs A because they say an application was active, which needed to be removed before they could carry out an inspection. Sky also told Mrs A that she had sent them the wrong device.

After several unsuccessful attempts by Mrs A to return the device, she complained to the Communication & Internet Services Adjudication Scheme (CISAS). Mrs A complained about how Sky had treated her, at a time when she was experiencing difficult personal circumstances. And because Sky had demanded payment, when she couldn't use the device. Mrs A also had her device inspected by a repairer who was approved by the manufacturer.

CISAS decided that Sky didn't have to repair or replace the device. They said the repairer had noted signs of damage on the device, so it couldn't be repaired under the warranty. But, CISAS found Sky had provided poor customer service when Mrs A had tried to return the device. So, they asked Sky to pay Mrs A £250 for the distress and inconvenience caused.

Mrs A also brought her complaint to our service. She said that Sky had discriminated against her, as she was a carer for both her husband and son. Mrs A also complained that Sky had breached their contract with her and that it should be ended.

One of our investigators looked into Mrs A's complaint and agreed that the customer service Mrs A experienced was poor. But, she didn't think this meant Sky had discriminated against Mrs A. The investigator also said that CISAS had already decided on the fault with the device and reached a finding on the customer service. So, she didn't think Mrs A's complaint should be upheld.

Mrs A didn't agree and provided several examples of where she thought Sky had breached the terms and conditions of her fixed sum loan agreement. She said Sky should have treated her differently, because of her personal circumstances.

The investigator didn't change her conclusions and Mrs A'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.

Before I do so, I'd like Mrs A to know that I empathise with the difficult personal circumstances she has described to us. I can see that it must have been an extremely worrying time for her. Although I'm aware Mrs A's circumstances continue to be difficult, I hope things improve for her and her family.

Sky is seeking to recover payment from Mrs A under a regulated fixed sum loan agreement. Our service is able to consider complaints about these sorts of agreements.

Mrs A's complaint against Sky is in two parts. Firstly, she's unhappy with the quality of the device and the customer service provided by Sky. And secondly, Mrs A says Sky discriminated against her and didn't provide the correct provisions, in light of her caring responsibilities. So, she says Sky breached the terms of her fixed sum loan agreement.

The quality of the device and customer service

In their findings, CISAS decided that the Sky didn't fail in their obligations to repair Mrs A's device. They said the device didn't have an inherent fault and that Sky hadn't breached the contract they have with Mrs A. CISAS also made a finding on how Mrs A was treated, when she attempted to send the device to Sky.

The rules under which this service operates can be found under DISP in the Financial Conduct Authority's (FCA) handbook. A copy of which can be found online. Those rules, specifically DISP 3.3, set out the circumstances under which we might consider dismissing a part of a case without consideration of its merits.

DISP 3.3.4A says:

"The Ombudsman may dismiss a complaint referred to the Financial Ombudsman Service on or after 9 July 2015 without considering its merits if the Ombudsman considers that: ...

(2) the subject matter of the complaint has been dealt with, or is being dealt with, by a comparable ADR entity."

I think it's clear from what we've been provided that the part of the subject matter Mrs A seeks to raise has already been dealt with by CISAS. In the circumstances of the complaint, I'm satisfied that CISAS is a comparable ADR entity.

Having considered all the evidence, I don't think we should consider the points Mrs A has raised about the quality of device and the customer service provided by Sky.

During our investigation, Mrs A accepted that we shouldn't look at the concerns already considered by CISAS. So, I've gone on to think about Mrs A's concerns regarding how she was treated as a carer to her husband and son.

Mrs A's role as a carer

When Mrs A first raised her concerns about the quality of the device, she explained her personal circumstances to Sky. She told them she has caring responsibilities for her husband and her son, who both have health conditions.

Additionally, during our investigation Mrs A has referred to guidance from the FCA about fair treatment to vulnerable customers. She says Sky didn't prioritise her concerns and she wasn't directed to use a specialist telephone number, to help her return the device for inspection.

I'd like Mrs A to know that I've thought carefully about her role as a carer and Sky's responsibilities to her.

Mrs A has complained that Sky discriminated against her, as she's a carer for both her son and her husband. If Mrs A means she's been discriminated in breach of the Equality Act 2010, that would invariably involve showing she had a protected characteristic. I don't therefore believe that's what she's saying, as being a carer isn't a protected characteristic.

But if she's using the word discrimination in the everyday sense of the word to, in effect, say that Sky didn't treat her fairly, then I can see why she feels that way given her circumstances. That's because I do think there was enough evidence for Sky to have realised Mrs A's vulnerabilities and to have helped her better than they did.

Both Sky and CISAS have looked into providing Mrs A with redress for the way she was treated. Mrs A has said Sky should go further and end her fixed sum loan agreement with nothing further to pay. After thinking about everything that has happened, I think it's fair for Mrs A to still pay for the device supplied by Sky. I say this because Mrs A used the device up until March 2024 and an engineer says the device is free of an inherent fault.

So, I don't think how Mrs A was treated by Sky, means she should no longer be expected to pay for the device. Overall, I think it's fair for Sky to continue to hold Mrs A responsible for the repayments due under the fixed sum loan agreement.

In all the circumstances, I don't think there's anything in the available evidence to suggest the problems with the return of the device was because of Mrs A's role as a carer. I agree with our investigator, in that I don't think Sky have discriminated against Mrs A in the everyday sense of the word.

However, I agree that Sky could have handled Mrs A's concerns about the fault with her device better. But, I think the poor customer service Mrs A received from Sky has already been looked into by a different scheme, and that she has received a payment from Sky. It then follows that I cannot make a further award, or supersede the findings of that alternative scheme.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 7 July 2025.

Sam Wedderburn
Ombudsman