

## **The complaint**

Mrs C complains that Vodafone Limited unfairly holds her responsible for two fixed sum loans she says were entered into without her authority.

Mrs C's complaint has been brought on her behalf by a representative. My references to submissions made by Mrs C include those made by her representative.

## **What happened**

In February 2023 Vodafone provided a fixed sum loan in Mrs C's name to supply a mobile phone. The cash price was £1,273 and the loan was repayable over 36 months. The same day Vodafone provided another fixed sum loan in Mrs C's name for an electronic watch. The cash price was £522 and it was also repayable over 36 months.

Mrs C says that she noticed a direct debit payment being made to Vodafone from her bank account in September 2023.

Believing she'd been the victim of fraud, Mrs C contacted Vodafone about it. In the coming months Mrs C and Vodafone corresponded a number of times about the agreements, but Vodafone's position was that agreements weren't fraudulent.

I understand that in November 2023 Mrs C went into a Vodafone retail store to attempt to resolve the issue, unsuccessfully.

Vodafone issued a final response on 17 November 2023. It said that it had listened to the sales call in February and Mrs C had given her son permission to speak with it after having passed its security questions. Vodafone suggested that Mrs C's son had entered into the agreements with her authority. It didn't uphold the complaint, but it offered to clear a recent airtime bill and for that agreement to be exited without charge.

In December 2023 Vodafone issued default notices to Mrs C. It's understood that a family member contacted Vodafone to discuss a repayment strategy but Vodafone declined to do so on the basis that Mrs C would need to make payment arrangements herself.

Vodafone subsequently instructed a debt collection agent to recover the associated debt. Mrs C says that she encountered further barriers in making payments due to her details not matching those held by the agent.

On 20 December 2023 Vodafone wrote to Mrs C to tell her it was terminating the agreements.

Mrs C referred the matter to this service. She said that she had no recollection of the sales call to which Vodafone referred to in its final response. She said that she had not been in contact with her son for in excess of three years.

Our investigator didn't uphold the complaint. They noted that the sales call Vodafone relied on was no longer available, but they considered Vodafone's written records of events.

They found that a four-digit security code had been required at the point the loans were provided, and found it unlikely that someone other than Mrs C – or someone she'd shared the code with – would've known it. They also noted that payments had been made towards the loans from Mrs C's account for some seven or eight months. Overall, they considered it more likely than not that Mrs C had given someone else authority to enter into the loans. So, they found that Vodafone had acted fairly in holding Mrs C responsible for them.

Mrs C disagreed. She made a number of points, for example - that the goods had been sent to an address other than hers but it's clear that Vodafone had her address because she received recent requests for payment. She also asked why the sales call was no longer available, questioning its disposal despite her dispute. Lastly, Mrs C said she hadn't noticed payments being taken from her account and demonstrated that she'd only recently sought online access to her accounts as a result of these events.

Mrs C asked for an ombudsman's decision on the case. I understand that by this point the associated debt of around £2,000 had been repaid by Mrs C.

The case was passed to me and I issued a provisional decision on it. I said:

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

*Mrs C's complaint is about two fixed sum loans. They're regulated agreements and one which this service has the power to consider complaints about. Mrs C is eligible to bring this complaint on the basis that Vodafone has sought to recover payments from her under those agreements.*

*Both parties might find that I'll cover events in less detail than they were submitted to us. And I might not address every point that's been made. If that's the case, it's simply a reflection of the informal nature of this service. I also might not find some points material to the outcome, so I might not find it necessary to address every point in order to explain what I think a fair and reasonable outcome is.*

*In considering what I believe to be fair and reasonable in all the circumstances, I'm required to take into account relevant law, rules, guidance, codes of practice as well as what I consider to have been good industry practice at the time.*

*When the evidence is incomplete, inconclusive or contradictory – and I think it is in this case – I make my decision on the balance of probabilities. That is, what I think is most likely to have happened given the available evidence and the wider circumstances.*

*By Mrs C's own account, she opened an account with Vodafone – perhaps longer than 10 to 15 years ago – and she accepts her son used the account. She disputes, however, that she gave authority for anyone else to enter into the fixed sum loan agreements in question on her behalf.*

*It's for me to determine whether it's more likely than not that Mrs C gave someone else sufficient authority – actual or apparent – to enter into the agreements in question. And, consequently, whether Vodafone has acted fairly in holding Mrs C responsible for the repayment of those agreements.*

*Vodafone believes that Mrs C gave actual authority for her son to enter into the fixed sum loans on her behalf. It says it's listened to the sales call in which Mrs C was required to provide her name, address and a security code. It also says that the goods were sent to the account holder's address, as required by its policy.*

*Mrs C has given what I consider to be a plausible and persuasive account of her relationship with her son. She says that she hadn't had any contact with him for around three years prior to the agreements.*

*I also think Mrs C has made a valid point in questioning why Vodafone didn't keep a copy of that call, particularly because it was aware of the dispute at the point it was able to listen to it. In its absence, the material evidence we're left with (broadly speaking) is Mrs C's testimony as well as Vodafone's records of matters.*

*I've carefully considered Vodafone's written records. Put simply, I don't think they represent the events Vodafone has presented. I'll explain why. In doing so, firstly I'll summarise the relevant events represented on Vodafone's records;*

*On 17 February 2023 a four-digit security code was sent to the mobile number associated with the account. The records support that someone other than Mrs C was using the account and in control of that number. There isn't mention of Mrs C being involved.*

*The records show that on the same day Mrs C's current address, postcode was added to the account. Records then shows that the goods relating to the first fixed sum loan agreement would be sent to an address other than the one the account.*

*On 21 and 22 February 2023 there's notes of an incoming call from someone other than Mrs C. Both notes incorrectly identify them as the account holder and recipient of the goods. The subject of the calls is them having difficulty in receiving the goods from a pickup point as they didn't have identification.*

*The above persuades me, on balance, that Mrs C didn't have involvement in the agreements. If Mrs C had given authority for someone else to enter into the agreements on her behalf, I'd expect there to be a record of that authority.*

*On the contrary, Vodafone's records suggest that a third party was in control of the mobile number associated with the account and used that access to procure a security code and enter into more than one agreement which was subsequently sent to an address other than Mrs C's. I think that's supported by the records which show the recipient had issues obtaining the goods and was referred to as the account holder.*

*So, overall, I think the evidence provided points to Mrs C not having given authority – actual or apparent – for the agreements in question. It follows that I don't think Vodafone has acted fairly by holding Mrs C responsible for those agreements.*

#### *Putting things right*

*Taking into account that I'm persuaded Mrs C didn't give actual or apparent authority for the agreements to be entered into, I don't think she ought to have been held responsible for repaying them.*

*I understand that a number of repayments were taken from Mrs C's bank account in respect of the agreements before she noticed them. I'm also aware that she subsequently made a direct debit indemnity claim to recover those payments. It seems the associated debts were passed to a collection agent, and Mrs C subsequently chose to repay those debts, which is something she says she did with difficulty.*

*As things stand it's not immediately clear to what extent Mrs C is out of pocket as a result. It's something that it would be beneficial for both parties to explain before I issued a final decision on the complaint. In any case, provisionally, I find that it would be reasonable for*

*Vodafone to reimburse any payments Mrs C made in respect of the two fixed sum loans in question, including any interest fees and charges which might have been added. It should also pay simple interest on that sum at 8% per annum.*

*I've also considered other costs Mrs C might have incurred as a result of the agreements having been entered into. I'm aware that there might have been associated service agreements for network access which were provided alongside the fixed sum loans. This service doesn't have jurisdiction over those type of agreements. However, I can make an award for the costs Mrs C might have incurred in relation to such agreements if they were provided as a result of the fixed sum loans in question having been entered into.*

*It seems that was the case here. However, I've also seen that Vodafone has already ended those agreements with nothing further to pay. So, on the basis that Mrs C has not suffered a financial loss relating to any such agreements, I make no award. If, however, Mrs C can demonstrate that she has suffered a loss in this respect, I'll consider making a further award for this.*

*Lastly, I've taken into account how Vodafone's handling of matters has impacted Mrs C. And whilst I accept that it hadn't been Vodafone's intention to allow a third party to enter into the agreements without Mrs C's authority, the discovery of that event – particularly involving a close family member – must have been very upsetting for Mrs C. And I think that matters were made worse for Mrs C due to Vodafone's poor handling of the subsequent situation.*

*As I've explained above, now that the sales call Vodafone refers to isn't available, I can't say for sure whether the account Vodafone gave of it is accurate or not. But I think it's fair to say that the account it gave is strongly contradicted by its written records. That being the case, I think Vodafone ought reasonably to have arrived at the conclusion that Mrs C hadn't given authority for the agreements when it reviewed her complaint in November 2023. Had it done so, I think Mrs C would've been caused significantly less trouble and upset, and she wouldn't have found it necessary to have repaid debts that she ought not to have been responsible for.*

*Taking into account what Mrs C has said about the trouble and upset caused, I think Vodafone ought to pay her £300 compensation by way of an apology.*

In summary, my provisional decision was that in addition to removing Mrs C's liability for the loans, Vodafone needed to;

- refund Mrs C with any sums she's paid towards the fixed sum loan agreements referenced above, including any interest, fees and charges. It should pay 8% simple interest per annum on that sum from the date of payment until the date of settlement.
- remove all traces of the fixed sum loan agreements referenced above from Mrs C's credit file; and
- pay Mrs C £300 compensation for the trouble and upset caused.

There were several further submissions from both parties which focused on the sums paid by Mrs C and consequently what Vodafone ought to repay to her.

Mrs C said, in summary, that she was out of pocket as a result of having paid two sums to Vodafone - £1,950 as well as £300. She also made the point that she'd incurred travel costs in attempting to resolve matters with Vodafone.

Vodafone said that it believed Mrs C had paid sums of £522 as well as £204 towards the fixed sum loans in question. However, it suggested that the sum in the region of £1,950 Mrs C spoke of was in relation to an unregulated airtime agreement, not the fixed sum loans in

question.

I sought to clarify matters and issued the following to both parties;

*At the outset, my position remains broadly unchanged. That is to say, I'm satisfied that Mrs C didn't enter into, nor give actual or apparent authority, for two regulated fixed sum loan agreements. I remain of the view that she ought not to be held responsible for those. Putting things right in that respect might include various things from Vodafone. I'll explain why.*

#### Fixed sum loan agreements

*The fixed sum loan agreements for the provision of the goods as well as finance are regulated lending products. Our jurisdiction covers these.*

*Vodafone says that there were two fixed sum loans – one for £522 and one for £1,224. It's shown a history of the loan repayments and says that it received full payment of £522 in respect of the first loan as well as £204 in respect of the second loan. That's not consistent with the loan repayment history it's shown – and I accept that matters might be complicated due to various indemnity claims made by Mrs C under which some funds were retrieved. However, it's made that assertion and in the absence of any other information to contradict it, I think those sums need to be repaid to Mrs C.*

*Vodafone says that the remaining balance was written off. By written off, I assume that Vodafone means the account was closed, not sold on and Mrs C would not be pursued for the remainder of the lending – I think that's generally accepted to be what's meant by a write off.*

*So, in respect of the fixed sum loans that Mrs C complains about, my intention is to require Vodafone to;*

- *Repay any sums Mrs C paid towards the two fixed sum loans in question along with simple yearly interest at 8%. That includes sums paid to Vodafone as well as any agents instructed to work on its behalf, or any debt collection agents the accounts might have been sold to. Based on the evidence provided that's £522 and £204. However, if Mrs C can demonstrate that she's paid more towards the fixed sum loans, then I'll also require Vodafone to repay that. Similarly, if Vodafone can demonstrate that Miss C has paid less than those sums, then it can limit the payment to the sums paid; and, to the extent that it has not already done so*
- *End the loans with nothing further to pay, buy back the accounts if they had been sold on and ensure that it and any agent acting on its behalf, or one that might have bought said debts, remove all trace of the loans from Mrs C's credit file.*
- *Pay Mrs C £300 compensation for the trouble and upset caused.*

*It might help both parties to reiterate that the spirit of my decision here is that Mrs C ought to be put in a position whereby she's not at a financial loss as a result of payments made towards the loans, and that she's not required to make any further payments, whether by Vodafone or a third party.*

#### Other agreements

*Our jurisdiction doesn't cover unregulated airtime agreements, such as those provided for airtime to access Vodafone's mobile network.*

*From what Vodafone has said, I understand that the sums in the region of £2,000 for which Mrs C is being asked to repay, is in relation to an airtime agreement.*

*Whilst we generally cannot consider complaints about those types of agreements in isolation, we can consider making an award for any losses which arise from the provision of the fixed sum loan agreements above. That's not the case here, however. Mrs C accepts that the airtime agreements were entered into as far back as 2010. They were pre-existing at the point that the fixed sum loans were provided, so, any debt relating to them which Mrs C might wish to dispute didn't arise as a result of the fixed sum loans. It's therefore not something I can consider.*

*It's worth noting that Vodafone had previously offered to end any airtime agreements with nothing further to pay, but it also seems that Mrs C did an indemnity claim to retrieve some of those funds. It's not clear what Vodafone is now asking Mrs C to repay in relation to this issue, but if Mrs C wishes to take matters further, she might want to seek independent advice about how to do so. This service, however, cannot consider a complaint about an unregulated service or airtime agreement. So, to be clear, the award I've made above is only in relation to the regulated fixed sum loans Mrs C complains about.*

Mrs C made no further submissions by the deadline set.

Vodafone said, in summary;

- The fixed sum loan agreements have been written off and Mrs C is not being pursued for any balance.
- It believes the sums it quotes as having been paid towards the fixed sum loans by Mrs C are correct, but if Mrs C can demonstrate she's paid more, it'll refund that too.
- Vodafone ended the airtime agreements mentioned by Mrs C and whilst she initially claimed sums back via an indemnity claim, she's subsequently repaid that sum. It's not seeking any further repayment in respect of those agreements.

The case has been passed back to me to make my 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.

Taking into account the further submissions made by both parties above, I've not found reason to change my provisional decision on this case. I'll explain why, in summary.

On balance, I remain of the opinion that Mrs C did not enter into the two fixed sum loans in question herself, nor did she give someone else authority – actual or apparent – to enter into the on her behalf. I'll set out what Vodafone needs to do to put things right below.

Any dispute Mrs C might have with Vodafone about the provision of unregulated service agreements ("airtime agreements") isn't a matter for this service to decide on. We don't generally have the power to consider complaints about such agreements in isolation, and in this particular case it's clear that they weren't provided as a consequence of the fixed sum loans Mrs C complains about.

I had taken into account the trouble and upset Mrs C has been caused, as well as costs – such as travel costs – at the point I said that I'd intended to award £300 compensation, so I don't find it necessary to increase that sum.

## **Putting things right**

For all of the reasons explained above, I find that Vodafone needs to carry out the following to put matters right, to the extent it hasn't already done so;

- Repay any sums Mrs C paid towards the two fixed sum loans in question along with simple yearly interest at 8%. That includes sums paid to Vodafone as well as any agents instructed to work on its behalf, or any debt collection agents the accounts might have been sold to.
- End the loans with nothing further to pay, buy back the accounts if they had been sold on and ensure that it and any agent acting on its behalf, or one that might have bought said debts, remove all trace of the loans from Mrs C's credit file.
- Pay Mrs C £300 compensation for the trouble and upset caused.

If Vodafone Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs C how much it's taken off. It should also give Mrs C a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

## **My final decision**

For the reasons explained above, my final decision is that I uphold this complaint and require Vodafone Limited to carry out the remedy set out above, to the extent that it has not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 25 April 2025.

Stephen Trapp  
**Ombudsman**