

## **The complaint**

Miss H has complained about how Telefonica UK Limited trading as O2 dealt with her in relation to a fixed sum loan agreement she'd taken out to buy a device.

## **What happened**

The circumstances of the complaint are well known to the parties so I'm not going to go over everything again in detail. But to summarise, Miss H referred a complaint to the Financial Ombudsman in November 2024. She said before becoming a customer of O2's she let it know reception was very important to her and O2 assured her she would receive good signal if she joined O2. Miss H said she'd therefore taken out a credit agreement with O2 in December 2023 to pay for a device that cost around £1,250. The agreement was to be paid back over three years with monthly repayments of around £35. She also had an airtime agreement with O2.

Miss H said as soon as she started to use the device there were issues with it – the screen was freezing; signal kept dropping; and the camera froze. Miss H said she asked for a device exchange but O2 ultimately refused. She said she'd been speaking to O2 regularly, but it hadn't helped her. She requested her device was exchanged.

O2 had responded to Miss H's complaint to acknowledge she had complained about the network issues and quality issues with the device. It said it had offered to inspect and repair the device if necessary and £100 compensation. Miss H also said O2 had compensated her £24 separately.

One of our investigators looked into things and said the Financial Ombudsman couldn't consider a complaint about network issues because it didn't relate to a financial service activity. She said she could consider the complaint with regards to the quality of the device because it was bought using a credit agreement. She thought O2's offer to inspect and repair the device, if necessary, along with £100 compensation, was fair. She said she'd not seen sufficient evidence the device wasn't of satisfactory quality at the point of sale.

Miss H responded to say she tried to gather evidence from O2 directly, but she'd been advised the history going back to 2023 had been erased when it went through a system change. She said she'd been on chat several times complaining about the device. She said she'd been paying in full for a faulty device and that she'd shown she'd been in regular contact with O2. She said it had been difficult to obtain evidence. She said O2 offered her an exchange that never happened. She said it never offered her £100. She also referred to another complaint she'd raised with O2.

Our investigator said if Miss H was unhappy with how O2 had dealt with any new complaints it would need to be considered separately to this one. And as things weren't resolved, the complaint has been passed to me to decide.

## **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.

I want to acknowledge that I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide the complaint quickly and with minimum formality. I want to assure Miss H and O2 that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Miss H bought the device using a regulated fixed sum loan agreement, and our service is able to consider complaints relating to these sorts of agreements. The provision of an airtime agreement doesn't fall under the list of activities that the Financial Ombudsman has the power to investigate. So I don't have the power to consider the complaints about the problems with the network that Miss H has mentioned. Our investigator explained this to Miss H.

I've looked to see if there's supporting evidence Miss H tried to exchange the device within the first 14 days. Having reviewed its contact notes, I've not seen sufficient evidence this was requested or that O2 unfairly didn't allow Miss H to do so. While I appreciate Miss H says some of the evidence has been erased, I'd like to have been more certain O2 failed to allow Miss H to do something which it offered.

However, Miss H has also complained about the quality of the device, and so I need to consider if O2 has responded to that claim fairly as well.

The Consumer Rights Act 2015 (CRA) implies terms into the purchases that the quality of goods is satisfactory. The CRA also sets out what remedies are available to consumers if statutory rights under a goods contract are not met.

Miss H bought new goods, so they should've been, amongst other things, free from even minor defects and durable. The CRA sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.

With regards to the quality of the device, I acknowledge Miss H said O2 was willing to offer an exchange but then changed its mind. I can understand this may have led to a loss of expectation for Miss H. But when deciding if O2 needs to take any action now in relation to the goods, as a starting point, I think Miss H would need to demonstrate there was a fault with the device and that the fault made it of unsatisfactory quality at the point of sale. The problem in this case is that I've not seen enough evidence to determine the device wasn't of satisfactory quality. I think O2 faced those same evidential challenges.

If there was evidence the device wasn't of satisfactory quality, the CRA broadly says that outside of the first 30 days the trader would be entitled to an attempt of repair or replacement. O2 was willing to arrange to inspect Miss H's device. I appreciate that might not be convenient for her, but I think that offer was fair. Going forward if Miss H chooses and is able to arrange for O2 to inspect the device, I'd expect it to respond accordingly. If Miss H is unhappy with how it responds it may be something our service can consider for her, but it would have to be dealt with separately and not under this complaint. That's because I primarily need to consider how O2 acted up to issuing its final response letter because the events preceding this relate to what it had the chance to formally consider. And the same goes for any other events not considered as part of this decision.

All things considered, I'm sorry to hear Miss H had problems with the network. I'm considering whether there are grounds to direct Telefonica to do something with the credit agreement or to take action with regards to the goods. For the reasons given above, I don't find there's evidence the device wasn't of satisfactory quality. O2 gave Miss H an option to have the device inspected. I can see O2 notified Miss H this back in February 2024 when it had been put on notice of her concerns. I think that was fair.

I appreciate things moved on and there was a lot of back and forth between O2 and Miss H. It seems part of this was down to Miss H's continued unhappiness with the network issues, which I can understand. And she's also continued to complain about the quality of the device. I've already explained that the evidence in relation to the quality of the device is incomplete. I do have to bear in mind that she could've taken steps to mitigate to an extent by allowing the inspection to take place. And even accepting O2 could have issued its formal response sooner or that its actions led to a loss of expectation for Miss H, I have to bear in mind that it offered £100 compensation. Miss H also said in the complaint form it credited her with £24 separately through the course of the complaint. As I've said above, I need to deal with this complaint quickly and with minimum formality. Overall, I think the compensation offer is fair for any perceived failings in the customer service dealing with the complaint. I'm not going to direct O2 to do more.

### **My final decision**

Telefonica UK Limited trading as O2 offered to inspect the device. It's also offered Miss H £100 compensation. I think that's fair in all the circumstances. My decision is that, to the extent not done so already, O2 should pay Miss H £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 20 January 2026.

Simon Wingfield

**Ombudsman**