

The complaint

Mr K complains Telefonica UK Limited trading as O2 supplied him with an altered mobile phone device through a fixed sum loan agreement.

What happened

In September 2023, Mr K acquired a mobile phone through a fixed sum loan agreement with O2. The total amount of credit was around £750 to be repaid in monthly payments of around £20 for 36 months.

Soon after acquiring the phone, O2 say Mr K exchanged the mobile phone for another one. In July 2024, O2 say Mr K contacted them to report an issue with the phone, saying he believes it had been remotely accessed. Mr K says he believes it was implanted with a device, which he suspected was facilitating unauthorised access to his phone and personal data. Mr K says he suspected the implanted device was designed as surveillance equipment and therefore not detectable by him.

Mr K has asked for compensation amounting to the cost of a mobile phone and an arrangement to pay for his airtime contract until he has a new mobile phone device.

O2 say their repair team examined Mr K's mobile phone in August 2024 and confirmed it was safe and secure – they found no evidence the mobile phone had been compromised in any way. But they found an issue with the mobile phone not calling out. So O2 say a new replacement mobile phone was sent out to Mr K in August 2024 and that their system shows Mr K has been using this device. O2 told us in their business file that they wanted to offer Mr K £150 compensation to apologise for any distress and inconvenience caused.

Our Investigator put this offer to Mr K, but he didn't accept it and said he was prepared to accept significant financial recompense to forgo criminal prosecution. So, our Investigator went on to consider Mr K's complaint. In summary, he said O2 had inspected the mobile phone and found no evidence of the issue Mr K reported – that the phone had been fitted with a device that had access to his data. Our Investigator thought O2 had acted fairly when replacing the mobile phone due to the issue they found with it not calling out. Overall, our Investigator said O2 had acted fairly and found their offer of £150 compensation to be fair and reasonable.

Mr K disagreed with our Investigator's view. He said our Investigator didn't examine the mobile phone himself, reiterated he didn't accept O2's offer and said he'd be looking for the agreement to be cancelled without further payment. Mr K says he researched the strongly held belief he had and that following contact with mobile phone technicians, he was told it was possible his device had been tampered with in the way Mr K says, but that the source was reluctant to provide any evidence.

Mr K also mentioned several times that he never visited an O2 store in relation to this purchase or at any time in 2023. And that he wanted this noted as he found our Investigator's view to be dishonest. I want to assure Mr K I've read what he has said and I've taken it into consideration when reaching my decision.

As Mr K remains unhappy with our Investigator's view, his complaint has been passed to me for a 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.

I note Mr K has made comments about the illegality of this situation and he's made reference to this being a crime. I can't comment on whether what's happened here is or isn't illegal, or whether a crime has happened, as it's not within my remit. I have to consider things on a fair and reasonable basis, while taking into consideration the relevant laws and good industry practice. If Mr K has concerns about illegal activity, it may be better he raises these matters with the police.

I can appreciate Mr K's concerns about his mobile phone being altered, but I can only hold O2 responsible if I found they did something wrong. And in this case, I don't think there's sufficient evidence to say they have. I'll explain why.

Mr K says he believes the mobile phone he had was altered with a device, allowing unauthorised access to his data. But he hasn't provided us with evidence of this. I note Mr K has told us that a third party has said this was a possibility, but he hasn't provided any evidence to persuade me this definitely was the case. Mr K said our Investigator hadn't examined the phone himself to investigate what he'd been made aware of. But it's not our role to examine Mr K's phone - it's for Mr K to present the relevant evidence to us for his complaint.

O2 have provided their internal notes to show they inspected the phone when Mr K raised these concerns – and their evidence shows their repairs team found nothing illegal had been implanted in the phone. So, without any evidence to say otherwise, I don't think I can fairly say the mobile phone was fitted with the device Mr K alleges. So, I won't be asking O2 to do anything more here.

O2 have said it's not clear if Mr K is also having the same concerns about the replacement phone he received from O2 in August 2024, or if he's just referring to the mobile phone that they inspected. In any case, while it may not be entirely clear, I haven't seen any evidence to suggest either phone has been fitted with the device Mr K has concerns about.

I note O2 told us in their file that they'd like to Mr K £150 compensation for the distress and upset caused to him. Although O2 didn't find through their inspection that the mobile phone had been implanted with a device, they did find an issue with Mr K's mobile phone not making outbound calls. Having looked at O2's internal notes, it seems Mr K reported to O2 via their online chat function that he wasn't able to make calls early July 2024 and I can understand this would have caused Mr K inconvenience. I can also see from O2's contact notes that Mr K had to contact them several times in July and August 2024 to ask for the relevant packaging to be sent to him so he could return the device once he'd agreed to O2 inspecting it. And it seems Mr K may have been told the incorrect thing about the packaging being sent within three working days. So, with all this in mind, I think this is a fair offer in the circumstances.

My final decision

For reasons explained above, I partially uphold this complaint and I require Telefonica UK Limited trading as O2 to pay Mr K £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 5 August 2025.

Leanne McEvoy
Ombudsman