

### **The complaint**

Mr O complains about the balance of a fixed sum loan agreement he has with EE Limited.

### **What happened**

In September 2024, Mr O took out a fixed sum loan agreement with EE, to pay for a brand new mobile telephone handset. The cash price of the handset was around £1,250 and Mr O was scheduled to make monthly payments of about £52 over a three year period.

Soon after the order, the device was dispatched from EE's warehouse and taken by a courier to Mr O's home address. However, EE says the courier couldn't complete the delivery, because Mr O wasn't at home at the time. So, the courier took the package back to their depot and arranged for a subsequent delivery the following day.

The courier successfully delivered the package to Mr O on the second attempt. But, Mr O says that when he opened the outer package and the device box, the handset was missing. To try and sort things out, Mr O raised his concerns with EE and suggested they had a problem with their supply chain. Mr O also doubted that the courier had made the first attempt at a delivery. He says he was working near his front door, at the time the courier was supposed to be there, but didn't hear a knock.

In their response to Mr O's complaint, EE said the package was weighed before it left their warehouse and the courier's photograph of the delivery, doesn't show any signs of damage or tampering. EE also said Mr O had confirmed the outer packaging and device box were intact. So, EE continued to hold Mr O responsible for the repayments due under the loan. Mr O didn't accept EE's response and brought his complaint to us.

One of our investigators looked into Mr O's complaint and found that EE had treated Mr O fairly. She agreed that the package didn't appear to have been tampered with and it was likely the security seal was in place before Mr O opened it. So, the investigator concluded that it was fair EE to ask Mr O to make the loan repayments.

Mr O didn't agree with the investigator's findings and said someone may have opened the package, removed the device and then used replacement packaging. He also said EE had told him other customers had experienced similar issues.

The investigator didn't change her conclusions and Mr O'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.

This case is about a fixed sum loan agreement which Mr O took out with EE. This is a regulated financial product, so we are able to consider complaints about it.

Where the evidence is incomplete or inconclusive, as it is in Mr O's complaint, I reach my

decision on the balance of probabilities. In other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

On the one hand, Mr O has told us that the courier could not have tried to deliver the device on the first attempt, and where he thinks the package was opened and resealed within EE's supply chain. Mr O also says he's been honest throughout and by purchasing a different device, it shows he hasn't got the handset at the heart of his complaint.

To support his side of the argument, Mr O has sent images of the packaging from EE and a copy of the receipt used to buy the subsequent handset. Furthermore, Mr O has told us EE have admitted that his concerns are common, and that there is more EE could do to trace and locate the handset he bought.

On the other hand, EE have shown where the package sent to Mr O was weighed at their warehouse, before it was handed to their courier. They say the package was tamperproof and the courier's images of the package being given to Mr O, do not show any damage. EE also say that the security at their warehouse is very strict, as is the process at the courier's depot.

Having thought about all the evidence and testimony, I can see where the weight of the package matches with EE's expectations. While EE haven't provided any footage of the device being packaged, I can see that the dispatch information on the label, is the same as on EE's records. So, I think it's likely Mr O's handset left EE's warehouse as planned.

I've looked carefully at the courier's image and I can see that the cardboard outer package appears to be sealed and intact. Additionally, the label on the package does not seem as if it has been removed and reapplied. In other words, I don't think there are any signs of tampering of the outer packaging. This is supported by the EE's comments about the delivery and what Mr O has explained to us.

With this in mind, I find EE's argument more convincing, in that I don't think the package was opened and resealed in the way Mr O has described. I acknowledge Mr O's point that it's possible for the courier, or another unknown third party to have access to the same packaging supplies as EE. But, based on all I've seen, I don't think I can draw that conclusion here.

I'd like to make it clear that I do not doubt Mr O's credibility. I also think he has taken reasonable steps, in purchasing a replacement handset. But, I need to weigh up the evidence we do have. Having considered everything, I think the evidence provided by EE is more persuasive. I think the courier's delivery records and what Mr O says about the condition of the package supports EE's view that the device was delivered to Mr O.

Mr O has gone on to say there may be a problem with EE's supply chain and the courier may have doctored the first attempted delivery records. While I accept the basis of what Mr O says, I don't think it is likely. I say this because of the courier's notes to show the whereabouts of the package and how it was kept securely, after the failed delivery attempt. I also say this because all parties agree the perforated security seal on the device box wasn't detached, when Mr O was given the package.

On balance, I don't think EE are acting unfairly by deciding that the most likely thing to have happened, is that the device was contained in the package delivered to Mr O's home address. Therefore, I don't find I have the grounds to direct EE to stop pursuing Mr O for the outstanding debt owed under the loan.

From what I've seen, Mr O has maintained the payments towards the fixed sum loan

agreement. I acknowledge where Mr O has done this to avoid any negative information from being recorded on his credit file. But, I'm aware that things may have changed since Mr O first brought his complaint to us.

So, following my findings it's likely EE may contact Mr O to make arrangements for the repayment of the balance of the loan. In doing so, I remind EE of their responsibility to treat Mr O's financial circumstances with due consideration and forbearance. This may mean, amongst other things, EE carefully considering Mr O's income and expenditure to put together an affordable repayment plan, if he needs one.

### **My final decision**

My final decision is that I don't uphold Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 19 January 2026.

Sam Wedderburn  
**Ombudsman**