

The complaint

Ms G complains about the balance of a fixed sum loan agreement with EE Limited.

What happened

In February 2025, Ms G took out a fixed sum loan agreement with EE, to pay for a brand new mobile telephone device. The cash price of the handset was around £800 and under the agreement Ms G was due to make monthly repayments of about £33 over a two year period.

The following day EE's courier attempted to deliver the package containing the handset, but said there was no answer at Ms G's home address. Ms G says she was at home at time and after tracking the package, she says the courier went to a completely different location. The courier took the package back to their depot and it was successfully delivered, two days after the order was placed.

Once in receipt of the package, Ms G says she opened it, but found that the device wasn't inside. She says EE had only sent her a screen protector and a new Subscriber Identity Module (SIM) card. So, shortly after the delivery, Ms G contacted EE to complain.

In their final response to Ms G's complaint, EE said the package was the correct weight for its contents at their warehouse, before it was handed to their courier. EE also said the courier's photograph of the delivery didn't show any signs the package had been damaged or opened. So, EE told Ms G the handset was likely inside the package and continued to hold her responsible for the balance of the fixed sum loan agreement. Ms G didn't accept EE's response and brought her complaint to this service.

One of our investigators looked into Ms G's case and found that EE had treated Ms G unfairly. She wasn't persuaded EE had sent the handset to Ms G. So, the investigator asked EE to remove Ms G from the fixed sum loan agreement and refund the repayments she had made with interest added. The investigator also said EE should remove the loan account from the details held about Ms G with credit reference agencies.

Ms G accepted the investigator's findings, but EE didn't. They said the package delivered to Ms G hadn't been tampered with and that they were confident the correct device had left their warehouse. But, EE didn't provide us with information about the weight of the package to support that.

The investigator didn't change her conclusions, so Ms G'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.

Ms G bought the brand new device using a regulated fixed sum loan agreement, and our service is able to deal with complaints relating to these sorts of agreements. From what I can

see, EE was the supplier of the device as well as the provider of the finance.

When the evidence is incomplete, inconclusive, or contradictory, as 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.

On the one hand, Ms G says she received a sealed cardboard box from the courier, which contained a screen protector and a SIM card, but no device box. Ms G hasn't mentioned that the cardboard box was damaged or partially opened when she received it. She's also told us that the courier's failed delivery attempt, was because the package was taken to an incorrect location, rather than Ms G not answering her door.

Ms G has provided her own photographs showing what she says was inside the package. I need to keep in mind that Ms G's photographs were taken around eight months after the delivery. However, I can see that Ms G has been consistent in every aspect of her side of the dispute, from when she reported things to EE and in her subsequent referral to our service.

On the other hand, EE have told us that the package was weighed at their warehouse, before it was handed to the courier. Although EE haven't provided any evidence to show when this was done, by who and what was recorded, they say the weight was as they expected. EE have also explained that their warehouse procedures are strict and secure. Furthermore, EE say the courier's photographs of the delivery don't show any damage or tampering to the package

Having thought carefully about what each party has said, on balance, I think the evidence available supports Ms G's version of events. I say this because Ms G has been credible and consistent with how she has described what happened. Ms G doesn't report an empty device box within the packaging, rather that the device box simply wasn't there.

I accept that my findings are very much weighted on what Ms G has said. But I don't think EE have provided evidence to counter her testimony. While I acknowledge that EE say the package had the correct weight at their warehouse, I haven't seen supporting records to show a device box was included in the package. Similarly, EE haven't provided evidence to demonstrate the whereabouts of the device, or where an account connected to Ms G is being used to operate the handset.

Additionally, I'm mindful that the courier's images don't show all the sides of the cardboard box when it was delivered. And where Ms G says EE had told her she should have opened the box in front of the courier. Since Ms G hasn't said the cardboard box was damaged, I don't think it's likely the package given to her was tampered with. But, I need to balance this against the absence of evidence from EE, which may have shown that the box delivered to Ms G, was the same as the one that left their warehouse.

I'm aware of EE's reluctance to provide any commercially sensitive information, and that approach may have restricted them sending us the type of evidence I've spoken about. However, I'm satisfied EE had an option to put those documents and details together, in a way that would not have compromised their wish to retain specific internal details. In other words, EE had an opportunity to provide us with key evidence and redact information that may not have been relevant.

Since raising her concerns, Ms G hasn't reported things to the police. She says this is because EE didn't send her the handset, rather than a suspicion of theft. Given what Ms G has said, I don't think it was unreasonable for her to rely on EE's complaints process, rather than the police, to sort things out. I can also see that Ms G has maintained repayments to

EE, to try and prevent any adverse information appearing on her credit file. So, I don't think making the repayments is a sign that Ms G accepts she received the handset from EE.

Overall, I think the credibility and consistency of Ms G's argument outweighs the evidence that EE have provided to support their side of the dispute. In the very specific circumstances of this case, I'm persuaded that the handset wasn't included in the package sent to Ms G. So, I don't think it's fair for EE to hold Ms G responsible for the repayments due under the fixed sum loan agreement.

It then follows, that I think EE should allow Ms G to exit the fixed sum loan agreement and return the items she says were in the package, at no additional cost to her. I'm aware that one of these items was a SIM card, which Ms G says she hasn't used. The contract for the airtime services associated with the SIM card isn't something we can consider. I say this as that contract is not regulated. But, because the contract for the SIM card was taken out at the same time as the fixed sum loan, I also think it's fair for EE to refund any costs associated with Ms G's unused airtime services.

Ms G has been without the use of the funds from the repayments she has made towards the fixed sum loan agreement. So, I think it's fair for EE to add interest at 8% a year simple to the refund of repayments, from the date they were paid, to the date of settlement of this complaint.

In light of my conclusions about the ending of the agreement and the refund of repayments, I don't think it would be fair for Ms G to suffer from any adverse information EE may have recorded with credit reference agencies. So, I think they should remove any information EE may have passed on to those agencies, about the fixed sum loan agreement in Ms G's name.

Putting things right

For these reasons, I require EE Limited to:

1. Allow Ms G to exit the fixed sum loan agreement and return the items she received from EE, at no additional cost to her;
2. Remove any adverse information about the fixed sum loan agreement, from the details held with credit reference agencies about Ms G;
3. Refund all the repayments to Ms G, that she has made under the fixed sum loan agreement, from the start of the agreement to the date of settlement of this complaint; and
4. Add interest at a rate of 8% a year simple to part three of this settlement, from the dates the repayments were paid, to the date of settlement of this complaint.

EE must pay these amounts within 28 days of the date on which we tell them Ms G accepts my final decision. If they pay later than this, they must also pay interest on the settlement amount from the date of final decision to the date of payment at 8% a year simple.

If EE deducts tax from any interest they pay to Ms G, they should provide Ms G with a tax deduction certificate if she asks for one, so she can reclaim the tax from the tax authorities if appropriate.

My final decision

My final decision is that I uphold this complaint and require EE Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 12 January 2026.

Sam Wedderburn
Ombudsman