

## **The complaint**

Mr F complains about the sale of a fixed sum loan agreement taken out with Vodafone Limited.

## **What happened**

In January 2024, Mr F took out a fixed sum loan agreement with Vodafone to pay for a brand new mobile telephone handset. I'll call this handset 'Device One'. Around eight months later, Mr F decided to upgrade his handset and spoke to Vodafone about a trade in deal.

As part of the deal, Mr F says Vodafone told him he could trade in Device One and they would use the proceeds to repay the entire balance of the fixed sum loan. Mr F says he returned Device One to Vodafone and went on to take out a second fixed sum loan agreement for different brand new handset. I'll call this handset 'Device Two'. Shortly after receiving Device Two, Mr F says he noticed that the balance of his previous loan hadn't been settled. So, he called Vodafone to complain.

In their final response to Mr F's complaint, Vodafone said they had used the proceeds of the trade for Device One to give Mr F a monthly reduction in his airtime services contract. However, Vodafone said they didn't have a record of the conversation where Mr F agreed to that. So, Vodafone offered to reduce the loan for Device One by the value of the traded handset and then reduce it by a further £100 as a gesture of goodwill. But, this offer meant that Mr F would still owe Vodafone a balance for that loan.

Vodafone also said Mr F could send back Device Two and exit the corresponding fixed sum loan agreement with nothing further to pay. Mr F didn't accept Vodafone's offer and said that in addition, he wanted Device One returned. Vodafone didn't agree to that, so Mr F brought his complaint to our service.

Once Mr F's complaint had been passed to one of our investigators, Vodafone contacted us to make a further offer. They said they would settle the entire balance of the loan for Device One, but they would remove any discount Mr F receives for his airtime services contract.

After considering Vodafone's latest offer, the investigator found that it was fair. She said the terms and conditions of the trade in deal, meant Mr F wasn't ever entitled to his device back. And she said the offer meant Mr F wouldn't be responsible for the total cost of Device One. The investigator also concluded that it was fair for Vodafone to record any missed payment information on Mr F's credit file.

Mr F didn't agree with the investigator's findings and said Vodafone should give him a replacement for Device One and make no increase to his monthly airtime services cost. Mr F also said Vodafone had denied him the right to close the fixed sum loan for Device Two, within the fourteen day cooling off period.

The investigator didn't change her conclusions, so Mr F'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 two fixed sum loan agreements which Mr F took out with Vodafone. These types of loans are regulated financial products, so we are able to consider complaints about them.

### *Misrepresentation*

A misrepresentation is, in very broad terms, a statement of law or of fact, made by one party to a contract to the other, which is untrue and which induces the other party into the contract.

In Mr F's case, he says Vodafone told him they would apply the value of Device One to the balance of the fixed sum loan agreement he took out in January 2024. He says Vodafone told him the value would be sufficient to completely repay that loan.

On the other hand, Vodafone say that at the time of the trade in deal, Mr F was given the option of either having the value of Device One applied to his existing loan, or as a monthly discount to his airtime services contract. Although Vodafone say it's likely Mr F chose the latter option, they don't have a copy of the call where this was discussed.

Mr F's concern is that he says he would not have taken out the loan for Device Two, had he known the first loan would not have been settled in its entirety. So, I've considered if the available evidence shows where Mr F was given incorrect information by Vodafone.

I've thought about Mr F's testimony, where Vodafone haven't been able to supply a copy of the call and the length of time Mr F had Device One. Having done so, I'm not persuaded Vodafone gave incorrect information about the trade in of Device One to Mr F. I say this because Vodafone didn't give Mr F an exact value for Device One, which he could rely on to repay the remaining balance of the fixed sum loan. And I think it follows that the value of Device One would have decreased after Mr F had made use of it for around eight months.

So, I've placed more weight on Vodafone's evidence that it's more likely Mr F took the option of having the value of Device One used as a monthly discount to his airtime services contract. I acknowledge Mr F's own recollection of what happened. But, on balance, I don't think Vodafone misrepresented the trade in deal to Mr F. However, in order to settle Mr F's complaint, Vodafone have agreed to make an offer which ends the loan agreement for Device One. So, I've considered this further.

### *Vodafone's offer*

Shortly after Mr F referred his complaint to our service, Vodafone told us they were prepared to settle the outstanding balance of the fixed sum loan agreement for Device One. This means Mr F wouldn't have any further responsibility to make any repayments towards that loan account. Vodafone also say they will remove any further monthly discount Mr F receives on his airtime services contract.

In light of my findings about misrepresentation, I think Vodafone's offer to settle Mr F's complaint is fair. I say this because Mr F has received some of the benefit from the monthly discount for the airtime he has used. And in settling the balance of the fixed sum loan, it means Vodafone are transferring the proceeds of Device One from the airtime service contract, to the balance of the loan itself.

This is what Mr F says he wanted at the outset of his complaint. But, I'm aware that Mr F now says he doesn't want to lose that discount. However, I don't think it would be fair for Mr F to benefit from both the continued use of a monthly discount and the complete settlement of his loan.

Additionally, Vodafone say the outstanding balance of Mr F's loan for Device One is around £780. This is more than their initial valuation in September 2024. So, by settling that fixed sum loan agreement in its entirety, I think Vodafone's offer gives Mr F more value for Device One, than he might have received when the trade deal was completed.

I'm also aware that Mr F has asked for Vodafone to provide him with a brand new replacement for Device One. I've looked at Vodafone's website to consider the terms and conditions of their trade in deal. Having done so, I can see that Section 18 says:

*"Other important matters*

*...b. You have 14 days, from the date you purchase your new Pay Monthly Airtime Plan to change your mind. Returns (as applicable) will be processed in accordance with our Returns Policy. However, once we accept your Trade-In Device we won't be able to return it to you."*

While I understand Mr F's reason for asking for a replacement for Device One, I think the terms and conditions of the trade in deal mean this wasn't ever available to him. So, I don't think it would be fair to ask Vodafone to take this step.

*The cooling off period for Device Two and the missed payments*

Throughout our investigation of Mr F's complaint, he has explained that Vodafone should have allowed him to exit the fixed sum loan agreement for Device Two within a fourteen day cooling off period. He says he raised his concerns within fourteen days of receiving Device Two, but Vodafone didn't comply with distance selling regulations.

I've thought about the onus on Vodafone here and I agree that the type of sale Mr F agreed to, meant a cooling off period would have applied. However, I can also see from Vodafone's response to Mr F in October 2024, where they told him he could return Device Two and exit the agreement. Vodafone also told Mr F they would transfer the value of Device One to repay some of the balance of the corresponding loan and remove the discount from his airtime tariff.

I accept where Mr F didn't agree to the other parts of Vodafone suggestion and disputed the value of Device One. This meant Mr F didn't take up the offer to hand back the subsequent handset. But, I think Vodafone did offer to allow Mr F to change his mind within the fourteen day cooling off period and hand back Device Two. Overall, I think Vodafone treated Mr F fairly, when he asked them to take back Device Two and end its fixed sum loan agreement.

Mr F has also raised concerns about the recording of missed payment information with credit reference agencies. Vodafone say that while they've placed a hold on any debt collection activity for the fixed sum loan agreements in Mr F's name, any missed payment information is an accurate reflection of their repayment history.

I've found that on balance, Vodafone didn't give Mr F incorrect information during his discussions with them about the trade in deal. So, I think Mr F was responsible for the repayments due to both fixed sum loan agreements. It then follows that it's fair for Vodafone to record any missed payment information with credit reference agencies.

Furthermore, Mr F says Vodafone have passed his loans to a debt collection agency. Vodafone say it is likely that Mr F has received contact from their debt collection partners, because his airtime services contract has fallen into arrears.

Unlike the fixed sum loan agreements in Mr F's name, the airtime services contracts he has with Vodafone are not regulated financial agreements. This means we don't have power to consider the contracts Mr F has for things like the amount or quality of telephone calls he is able to make. To be clear, I make no finding about Mr F's airtime services contract in this decision. Should Mr F have concerns about the payments due to his airtime services contract, then he should contact Vodafone in the first instance.

### *Summary*

In all the circumstances, I'm not persuaded Vodafone gave Mr F incorrect information which induced him into the fixed sum loan agreement for Device Two. Overall, I think Vodafone's offer to settle the loan for Device One and remove the onus on Mr F to make any further repayments is fair.

I also think Vodafone treated Mr F fairly when he asked to hand back Device Two within the cooling off period and where they may have passed on missed payment information to credit reference agencies.

### **Putting things right**

For these reasons, Vodafone Limited should:

- Settle the outstanding balance of the fixed sum loan agreement for Device One and close it with nothing further for Mr F to pay.

### **My final decision**

My final decision is that I uphold this complaint and Vodafone Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 26 September 2025.

Sam Wedderburn  
**Ombudsman**