

The complaint

Mr H complains about loss of data which occurred whilst EE Limited made repairs to a mobile phone device. The device was purchased through a fixed sum loan agreement with EE Limited.

What happened

In July 2024 Mr H entered into a fixed sum loan agreement to purchase a mobile phone device. Mr H experienced faults with the display screen and in February 2025 he returned the device to EE to repair.

Mr H says he told the representative in store that he was concerned about losing the data contained on the device. He says he was assured by the EE representative that the data would be backed up and that it was done at this time. When the device was repaired and returned Mr H found his data had been deleted and EE wasn't able to retrieve it for him. Mr H feels EE has treated him unfairly in this regard. To put things right he would like EE to end his device contract with nothing further to pay and allow him to keep the device.

EE considered the complaint but didn't agree. It said that during its investigation Mr H had confirmed he was aware that the device would be reset, but that the representative had confirmed it would be backed up. EE said that unfortunately it wasn't able to confirm the conversation which took place in store. However, as a gesture of goodwill it offered to waive an outstanding airtime balance of £39.89 which Mr H declined. EE has also since highlighted the repair terms and conditions which state that resets may happen during the repair process and that it is the responsibility of the customer to back up their device.

As an agreement couldn't be reached, Mr H referred his complaint to our service. One of our investigators considered the complaint but didn't uphold it. She explained that she wasn't able to safely say what was discussed when Mr H gave his device to EE to be repaired. However, she thought the terms and conditions of the repair were clear that it was the consumer's responsibility to safeguard their data. Mr H didn't agree with the assessment and asked for an ombudsman to consider the complaint.

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.

Having done so, I'm not going to uphold this complaint. I appreciate this will be disappointing for Mr H.

As the provider of the finance and the supplier of the goods, EE is responsible for the quality of the mobile phone device. The repair was part of EE's attempts to put right the fault, so I can consider if EE treated Mr H fairly in relation to this. I understand that the phone has now been repaired, and this isn't in dispute. The issue which is still in dispute is the loss of data during the repair process.

I've carefully considered everything Mr H has told us. I appreciate Mr H says he was told that EE would back up his device, and he wouldn't lose any data through the repair process. However, as the investigator explained, the alleged conversation took place in branch. So, there isn't a call recording or any other information to support Mr H's version of events. I have therefore needed to consider all the other evidence available.

EE has provided a copy of the Repair Booking Confirmation which contained the terms and conditions for the repair. On the first page of the terms and conditions (second page of the document) it states:

"It is possible that whilst carrying out the repair your Data may be lost or corrupted. If this happens, and you have not backed up or made a copy of the Data that is on your device as recommended, we will not be responsible for any loss you suffer"

On the facts Mr H was aware that the loss of data was a possibility during the repair, and I think it's clear from the terms that the responsibility to back up the data rests with the consumer. I've noted that the copy of the Repair Booking Confirmation provided by EE is unsigned by both parties. However, as a discussion took place, I'm persuaded on balance that Mr H was given a copy of the Repair Booking Confirmation (which contained the terms and conditions) before the repair took place.

I also note that the terms go on to say EE can provide help with backing up the data on the device, which is what Mr H says happened in this case. However, it says that EE isn't responsible if data is lost as part of that process. So even if EE did offer to help Mr H as he says, I don't think this makes a difference in this case.

I appreciate this is frustrating and that Mr H has lost important photos which hold sentimental value and cannot be replaced. However, the terms make it clear that he is responsible for backing up his device and he was aware of the risk the repair posed to his data. So, I can't hold EE accountable for this loss of data, and I don't uphold this complaint.

My final decision

For the reasons explained, I don't uphold this complaint against EE Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 8 January 2026.

Claire Lisle
Ombudsman