

## **The complaint**

Mr A complains about the information given to him, before he took out a fixed sum loan agreement with EE Limited.

## **What happened**

In August 2024, Mr A says he saw an advertisement from EE, offering customers an opportunity to trade in and upgrade in their mobile telephone handset. He says that as part of the deal, EE would pay him a lump sum of £480, using a bank transfer.

As Mr A was an existing customer of EE, he decided to apply for the deal. So, Mr A upgraded his handset and paid for it using a fixed sum loan agreement with EE. The brand new handset had a cash price of about £800 and after making an advance payment of £400, Mr A was scheduled to make monthly repayments of around £16 over a two year period.

Once Mr A had received the new handset, he noticed that EE had yet to make the payment of £480 to his bank account. And after EE had declined to make the payment to him, Mr A raised a complaint.

In their final response to Mr A's complaint, EE said that he didn't meet the criteria to get the deal they had offered. They explained that the deal was for new customer only. EE also said Mr A had already chosen a discounted airtime services contract, and that meant he wasn't able to qualify for any other deal. Mr A didn't accept EE's response and said the advertisement wasn't clear. He wanted EE to honour the lump sum payment offer and brought his complaint to this service.

One of our investigators looked into Mr A's complaint and found that EE had treated Mr A fairly. He said the deal Mr A was interested in, was for new customers only and that Mr A may have made a mistake, which meant he didn't select the offer he wanted during the online trade in process.

Mr A didn't agree with the investigator's findings and said the trade in process didn't prompt him to select a deal. Mr A also said that he could have used the cooling off period in his loan agreement, had EE got back to his query sooner.

The investigator didn't change his conclusions, so Mr A's complaint has now been passed to me to make a decision.

I sent Mr A and EE my provisional decision on this case, on 21 October 2025. I explained why I didn't think the complaint should be upheld. A copy of my provisional findings is included below:

*This case is about a fixed sum loan agreement which Mr A took out with EE. These types of loans are regulated financial products, so we are able to consider complaints about them.*

*Under the Consumer Rights Act 2015 (CRA), there is an implied term written into contracts that goods supplied need to be of satisfactory quality, fit for their intended purpose and as*

described. The CRA then sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met.

*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.*

*Mr A has explained that EE's advertisement meant they had offered to make a lump sum payment of £480, to customers who upgraded their handset to a specific make and model. To support what he says, Mr A has provided a screen shot of part of EE's advertisement.*

*On the other hand, EE's argument is that Mr A was an existing customer, so as well as some other reasons, he didn't qualify for their upgrade deal. To help support their view, EE have provided their records of their contact with Mr A and the application for the fixed sum loan agreement. However, EE say they are unable to provide a copy of their full advertisement. They say they don't keep such records, as the deals they offer change frequently.*

*I can understand Mr A's frustration with EE's retention of the terms of the deals they advertise. I say this as details of offers would be useful to EE, especially when looking into queries from their customers. Nonetheless, I think the screen shot we do have, is sufficient for me to make a decision in Mr A's case.*

*Part of the screen shot of the advertisement says:*

*".....(£480 via bank transfer for new to EE flex pay customers)."*

*Mr A says he wasn't a flex pay customer, before he tried to take up EE's deal and that meant he met the criteria. EE say Mr A was an existing customer, regardless of him having a flex pay product or not. So, they say Mr A wasn't a new customer.*

*Having looked at EE's records, I think they support Mr A's view that he wasn't a flex pay customer, prior to his application in August 2024. Additionally, I don't think the part of the advertisement we've been given, fully explains the criteria of a new customer. With this in mind, I acknowledge why Mr A may have found EE's advertisement to be unclear. So, I've thought about the other parts of the advertisement to help decide if EE gave Mr A incorrect information.*

*The screen shot of EE's deal that Mr A has sent to us also says:*

*"Cannot be used in conjunction with any other offer."*

*I can see from the application Mr A made to EE, that he chose a discounted airtime services contract, to sit alongside his new handset. EE have told us that the deal to provide a lump sum payment of £480, could not be used with other discounted products or services. Against this background, I think the advertisement Mr A has sent to us explains that he would not have met the criteria for the deal offered by EE, should he take another discounted service with them. I've found that Mr A did take an offer of a discounted airtime services contract. It then follows that I don't think Mr A had grounds to expect EE to give him the deal that forms the crux of his complaint.*

*Furthermore, I can see that the advertisement says:*

*"Purchase the (make and model is named) and (a second make and model is named) and trade-in an eligible device to receive a £20 monthly discount applied over 24 months."*

*EE have told us that Mr A chose to buy one of the handsets named in the advertisement, rather than two. I've thought about the offer and I think a potential customer was required to buy both new handsets, to qualify for the lump sum payment offer. In light of the choice Mr A made to purchase one of the relevant handsets, I think this is another reason why he didn't meet the criteria of the deal.*

*So, other than EE's point about Mr A not being a brand new customer, I think he wasn't eligible for the deal for two additional reasons. So, I don't think EE are obliged to pay Mr A the £480 he says he missed out on.*

*I'm also aware that EE have told Mr A that he didn't select the correct options, when completing the form on the trade in website. Mr A says he completed the form correctly, and that he wasn't given the drop down options EE have alluded to. I'm more persuaded by Mr A's version of events here. I say this because I've found that Mr A didn't meet the criteria of the offer in which he was interested. So, it may have been the case that the options weren't ever available to him, when completing the online trade in form.*

*Despite my finding that it was unlikely that Mr A completed the trade in form incorrectly, it remains that I think he was ineligible for EE's offer to make a lump sum payment. In all the circumstances, I don't think EE have made an incorrect statement of fact to Mr A, during the application process.*

*Moreover, I cannot see where Mr A made EE aware of his concerns within the first 14 days of taking out the fixed sum loan agreement. I say this having looked at EE's records of the contact between them and Mr A. Therefore, I'm not persuaded that EE caused a delay and denied Mr A the opportunity to end the loan within the cooling off period described in the agreement.*

*Overall, I'm not persuaded EE gave Mr A some incorrect information, which induced him into taking out the fixed sum loan agreement. So, I think EE have treated Mr A fairly when they sold him the new handset, and I don't think they are required to pay him the lump sum of £480 that he has asked for.*

*It then follows that I think it's fair and reasonable for EE to hold Mr A responsible, for the repayment of the remaining balance due under the fixed sum loan agreement.*

*I realise that my conclusions mean there will still be an outstanding balance owed by Mr A to EE. Mr A hasn't mentioned that he's struggling to keep up with those repayments. But, should that situation arise, I remind EE of their responsibility to treat Mr A's financial circumstances with due consideration and forbearance.*

*This may mean looking at Mr A's income and expenditure details to talk about the options they are able to offer to him, if he's unable to maintain the scheduled repayments.*

Mr A responded to the provisional decision and in summary, he said:

- He understood the reasons I'd explained for not upholding his complaint.
- The delay to report what had happened was because EE had asked their customers to avoid claiming for the lump sum payment, until their trade in partner firm was ready.
- He'd like something done so EE had to retain details of their offers, rather than deleting helpful and important information.

EE responded to the provisional decision and accepted it.

### **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.

Mr A has told us that he understands the reasons I've given in reaching my findings on his complaint about EE. I've thought again about the timeframe involved where Mr A says EE denied him the cooling off period of fourteen days. Although I accept he was likely waiting to find out how to trade his previous device, I still don't think EE caused him to miss the opportunity to exit the fixed sum loan agreement.

I also share Mr A's frustration that EE are unable to produce a copy of the advertisement he saw, to upgrade his device. I do not have the power to tell EE what information they must retain and for how long. But, it may be the case that EE may see the benefits of keeping relevant information, if they receive closely related complaints, about the deals they offer.

Having thought carefully about all the additional comments Mr A has made, on balance I still don't think the evidence shows where EE have treated him unfairly.

While I agree it would have been helpful for EE to have retained information about the deal they offered to their customers, I don't think it would have shown that they had given Mr A incorrect information. So, I'm not persuaded Mr A's complaint about misrepresentation would succeed. Overall, my conclusions remain the same, in that I don't think EE need to take any steps to put things right.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 8 December 2025.

Sam Wedderburn  
**Ombudsman**