

## **The complaint**

Mr H complains about some incorrect information given to him when he took out a fixed sum loan agreement with EE Limited (EE) which was used to purchase a mobile telephone device.

## **What happened**

Mr H had three mobile phone devices on his account with EE. In January 2025 Mr H contacted EE to enquire about moving one of the mobile phones to his son who would then take over the management and payment for that device. Mr H says he was advised to upgrade the device before changing ownership of it and he did so on the following day.

The new device cost £1,138.50. This was paid for via an upfront payment of £30 and a fixed sum loan agreement was arranged for the remaining balance of £1,108.50. The agreement was to be repaid over a period of 36 months. A 24 month airtime agreement was taken out at the same time.

Mr H then contacted EE concerning changing ownership over to his son and was informed that this was not possible. He was told he would have to settle the amount owed under the credit agreement and then apply to transfer the airtime agreement over to his son. If his son passed the relevant credit checks, the airtime agreement would continue in his son's name.

Mr H raised a complaint. He said EE's stance on ownership transfer was contradictory to the advice he had been given. He now had a credit agreement which he did not want and is unable to transfer the device over to his son which is what he had called to ask to do.

EE considered the complaint and said it could have done better during the initial phone call. It said the information provided was correct, but the advisor did not warn Mr H about what would happen if he entered into a new finance agreement. EE offered £50 for the distress caused by this error. It did say that Mr H did not mention wanting to transfer ownership to his son in the subsequent calls where he took out the agreement. EE also said the terms and conditions made clear he would not be able to transfer ownership without settling the amount owed under the finance agreement. So, EE did not agree that it should transfer ownership of the device as Mr H was requesting.

Mr H then brought his complaint to our service. He re-iterated that he had been advised to upgrade the device when he asked about transferring ownership. He said he was provided with videos and numerous pages of terms and conditions which he had to agree to whilst still on the phone with the advisor.

Our investigator reviewed the complaint and said she was satisfied that EE had given Mr H incorrect information and therefore acted unfairly in relation to the fixed sum loan agreement. Our investigator asked EE to:

- Allow Mr H to exit the fixed sum loan agreement and cancel it at no extra cost to him
- Allow Mr H to return the device at no extra cost to him
- Remove any adverse information related to this agreement from Mr H's credit file (if

- applicable)
- Allow Mr H to exit the airtime agreement at no extra cost to him.

Our investigator acknowledged that Mr H wanted to transfer ownership of the device to his son but confirmed EE had told us this was not possible. She therefore suggested Mr H's son contact EE when the device is returned in relation to keeping the number.

EE disagreed and asked for an ombudsman to review the complaint. It provided no reasons as to why it disagreed with the investigator's view when making this request. So, the complaint has now been passed to me to decide.

### **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.

I would like to start by saying that I have provided a brief summary of the events that occurred. I intend no discourtesy by this and can assure both parties that I have taken all the information provided into consideration when reaching a decision on this complaint.

In this decision, I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point, it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. Our rules allow me to do this, and this reflects the nature of our service as a free and informal alternative to the courts.

Mr H bought the phone using a regulated fixed sum loan agreement, and our service is able to deal with complaints relating to these sorts of agreements. Mr H is essentially saying that a misrepresentation occurred, which induced him to enter the contract. So, this is the matter which I will focus on in this decision.

I have listened to the phone call Mr H had on 27 January 2025. In this phone call, Mr H makes clear his intention is to transfer one of the devices under his account to his son. The advisor suggested that he upgrade the device before transferring ownership. When asked if the process would be straightforward the advisor said to transfer the device over to his son, he would only need to wait 24 hours if he was taking out a SIM only contract. The advisor further said he would only need to wait until after delivery of the new device to transfer it to his son if upgrading the mobile telephone.

I find that Mr H made his intentions clear during this phone call – he wanted to transfer a device to his son who would take over payment towards it. The device he already had was on a rolling basis following the end of the minimum term on the previous agreement. So, at the time Mr H made this call he was able to transfer the device over to his son without charge or penalty.

However, it is clear that the operator provided Mr H with advice which caused him to decide to upgrade the device. I find it unlikely that without this information, Mr H would have upgraded the device and entered into a new fixed sum loan agreement with EE. So, I find a misrepresentation was made and I think this induced Mr H into entering the agreement.

EE has said that on 28 January 2025 when the upgrade telephone call was taking place, Mr H did not mention that he was looking to transfer ownership to his son. I don't find it necessary for him to have mentioned it during this call considering his enquiry the day prior.

EE has also mentioned that its terms and conditions were provided to and agreed to by Mr H. I have reviewed the terms and can see they say the following:

*“Change of ownership - if you ask us to transfer the account for your plan services to another person e.g. because you are going through a separation, you must repay the full outstanding balance owing under your device credit agreement before we can transfer the account.”*

I appreciate these terms were provided to Mr H. However, I find that EE had a duty to bring the relevant term about change of ownership to Mr H's attention during this call. This was especially important in light of the account notes and discussion from the day prior.

In any event, I find that Mr H had cause to rely on the information provided to him the day before about transference. As such, the terms of agreement had essentially been altered, and I don't find it unreasonable for Mr H to have relied on the information given when entering the new finance and airtime agreements.

Therefore, having considered all the evidence available, I find that had Mr H not been given the information that he had, he would not have entered into this finance agreement. I find it more likely he would have transferred the original agreement he had with EE over to his son.

The resulting consequence is that he now has a new finance agreement and associated airtime plan, and EE has said this cannot be transferred over to his son. EE has said the only option would be for Mr H to settle the finance agreement and then ask to transfer the airtime agreement to his son. EE says the transfer of the airtime agreement would be allowed would be subject to credit checks.

So, I find that the fairest way to settle the complaint would be for Mr H to hand back the device and exit the finance agreement, at no further cost to him. Mr H has been paying for the finance and airtime agreements whilst his complaint has been ongoing, but as his son has had use of the device, I find it fair for EE to retain those payments.

Mr H will still be left with an airtime contract for this device. I therefore find that the airtime contract should also be terminated at the same time. This does not ordinarily form part of the matters we consider because these types of agreements are not regulated by the Consumer Credit Act 1974. However, in this case, the two are so intrinsically linked that I find it to be fair for us to take it into consideration when determining how to put things right.

I have not been made aware of any adverse information having been added to Mr H's credit file concerning this loan agreement, but if there has been, then I find this should also be removed from his credit file as it would not be fair for Mr H to suffer any negative impact due to the misrepresentation. EE has offered £50 for the poor service, and I find it reasonable for it to have paid this after having considered the impact on Mr H, so I make no further award.

### **My final decision**

My final decision is that I uphold the complaint and direct EE Limited to do the following:

1. Allow Mr H to hand back the device and end the loan agreement, at no cost to him
2. Allow Mr H to exit the airtime services contract, at no cost to him
3. Remove any adverse information recorded on Mr H's credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 January 2026.

Vanisha Patel  
**Ombudsman**