

The complaint

Mr S has complained EE Limited acted unfairly when declining to fix or replace a faulty phone he'd bought using a fixed sum loan agreement.

What happened

The parties are familiar with the background details of this complaint – so, I'll only briefly summarise them here. It reflects my role of resolving disputes quickly with minimum formality.

In October 2023, Mr S bought a new phone from EE for around £1,200 using a three-year fixed sum loan agreement.

In August 2025, the phone developed a green screen and would no longer power on following it being partially submerged in water. So, Mr S took his phone to a store run by the manufacturer. The inspection report recorded the store didn't find any markings to the phone's display, edges or back. It also said: *'Device appears to have been within its IP68 rating when it came into contact with water. Customer is outside of their 12 months warranty (and the 90 days after their last authorised repair in October 2024) so will need to make a claim under their consumer rights with the original seller.'*

Mr S asked EE to refund or replace the phone. But EE declined to fix or repair the phone saying they needed more evidence to support the fault was likely caused due to the phone not being of satisfactory quality and durable at the point of delivery. So, Mr S raised a complaint to EE about this.

EE responded to Mr S's complaint by clarifying EE's lifetime guarantee didn't apply to damage caused by liquid ingress. EE also said the inspection report didn't say the damage was caused due to the phone having had an inherent or developing fault at the point of delivery. So, EE didn't think they'd acted unfairly when declining the claim as they didn't believe the requirements for them to do so under the Consumer Rights Act 2015 (CRA) had been met. Unhappy with EE's response, Mr S asked the Financial Ombudsman to consider the matter.

Our Investigator didn't uphold the complaint. In summary, they didn't think the available evidence was sufficient to say the phone wasn't of satisfactory quality at the point of delivery. Among other things, the Investigator said the manufacturer's technical specifications for Mr S's phone say it is:

- *'splash, water and dust resistant and were tested under controlled laboratory conditions with a rating of IP68 under IEC standard 60529 (maximum depth of 6 metres up to 30 minutes). Splash, water and dust resistance are not permanent conditions. Resistance might decrease as a result of normal wear.'*

The Investigator also made Mr S aware that EE had been in touch and was willing to make an offer to resolve the complaint, saying:

- *'EE has said that it is willing to have the handset screened in an attempt to bring this matter to a resolution. The handset will be screened by [name of repairer], which is one of its chosen repair centres and a full report will be provided outlining the issue and origin. They will identify the nature of the problem and as to whether the fault is of an inherent nature. Should this be the case a repair or replacement will be completed free of charge. If the fault is found not to be of an inherent nature, you will be provided with a quote for repair. If you would like to have your phone assessed by [name of repairer], you would need to take it to your local EE Store who will forward the equipment to the repair centre.'*

Mr S responded to the Investigators findings by saying, in summary, that he didn't think water resistance should fail over time and if it did, then this would be indicative of an inherent manufacturing defect. Mr S also declined EE's offer for the phone to be inspected by the repairer EE had selected because he didn't believe they were sufficiently independent of EE. As a resolution couldn't be reached between Mr S and EE, the complaint has come 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 can consider this complaint because the issues Mr S is complaining about relate to the quality and durability of goods bought using a regulated credit agreement.

CRA

Alongside the specific terms of the purchase contract, the CRA is of particular relevance to this complaint. It says that under a contract to supply goods, there's an implied term that 'the quality of the goods is satisfactory'. In summary, this means the goods must meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. The phone was brand new when it was supplied so I think it's fair to say it should have been in perfect condition, free from minor defects and durable.

Among other things, the CRA sets out that:

- goods which do not conform to the contract at any time within the period of six months (beginning with the day on which the goods were delivered to the consumer) must be taken as to have not conformed to it on that day, unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.
- the consumer has the following statutory remedies available when their core goods rights under the Act aren't met (goods must be of satisfactory quality, fit for a particular purpose and should match a description, sample or model) or if the goods include digital content which does not meet the Act's requirements for digital content.
 - Short term right to reject – within the first 30 days;

And (running in parallel to the short term right to reject and extending beyond the 30 days)

- 1st tier remedies: free repair or free replacement; then (if the matter is not resolved after one repair or replacement – or more if the consumer wishes to have more than one).
- 2nd tier remedies: either the final right to reject or a reduction in price.

Has there been a breach of contract?

What I need to decide here, is whether it was reasonable for EE to conclude there hadn't been a breach of contract under the CRA. Based on the available evidence, I don't believe EE has acted unfairly when declining to repair or replace Mr S's phone. I'll explain why.

Mr S reported the issue with his phone's screen in August 2025. This was 22 months after the phone was delivered to him. So, I think it was reasonable for EE to want to see more to show what had likely caused the fault. And I consider it was fair for EE to require Mr S to obtain this supporting evidence – I'm satisfied this was in line with what the CRA says.

Mr S took his phone to the manufacturer. It seems the report Mr S has provided was written following the store performing a visual inspection - it makes no mention of an internal inspection having been undertaken. In any event, I think it's fair to say the report doesn't say the damage was caused due to a manufacturing defect that was either present or developing at the point of delivery. So, I understand why EE declined to repair or replace Mr S's phone. Based on the available evidence, I think it was reasonable for EE to still have had concerns about what had caused the damage to occur and whether they were potentially liable.

It seems both Mr S and EE accept the damage was likely caused due to water ingress. I think it's reasonable to believe that if the store had any concerns this was potentially due to the device having suffered some form of structural damage this would likely have been noted in the report. To the contrary, the report recorded the store found no markings to the phone's screen, edges or rear. So, it's plausible, as Mr S says, there is a durability issue and the water ingress, *'indicates a weakness from manufacture, even if it didn't show immediately'*.

Having done some research, it appears the anticipated working lifetime of Mr S's phone from new is between five to seven years. So, I appreciate why Mr S is unhappy his device stopped working after 22 months. But how long a phone lasts before it stops working depends on many factors. This includes, but isn't limited to, how the phone is used and for how long, the environment it's used and kept in, physical damage, degradation of parts (such as the battery), software obsolescence, physical damage and the quality of its components.

I don't know the circumstances which provided the opportunity for water to gain entry to the inside of Mr S's phone. But Mr S says the phone was, *'used within its advertised IP68 water resistance rating'*. However, the guidance issued by the manufacturer says, in summary, the IP68 rating doesn't mean the device is waterproof – it's water resistant. And the resistance isn't permanent and can decrease due to normal wear, tear or damage. It also seems the IP68 rating only applies to fresh water and that salt water, chlorinated pools or soapy water should be avoided as these can cause erosion to the seals.

It seems how quickly the water resistance will diminish and to what extent are dependent on many factors – with these being similar to those that affect the phone's working lifespan. The phone was 22 months old when it suffered the water ingress. So, I appreciate why EE wanted to know more about how the phone came into contact with the water and be more certain that a manufacturing defect had caused the water ingress.

Based on the evidence that was available to EE at the time they issued their final response to Mr S's complaint, I consider they acted fairly when declining to fix or replace Mr S's phone. I say this because I'm not persuaded the evidence supports the phone was more likely than not suffering from a defect that was present or developing at the point of delivery - which in turn, means I think EE was fair to conclude there hadn't been a breach of contract. I also think EE responded to Mr S's concerns without undue delay and in a reasonable timeframe.

EE has made an offer to resolve this complaint

As detailed above, EE has made an offer to resolve this complaint. It's my understanding this offer remains open for Mr S to accept.

I appreciate why Mr S has concerns about the independence of the repairer EE has chosen, who for ease, I'll refer to as R, to inspect his phone. I accept R has been selected by EE. But R is a separate legal entity and company to EE. As far as I'm aware, EE aren't R's only customer. And it seems R has the relevant qualifications and expertise to carry out the proposed inspection of Mr S's phone – which is the reason why R is one of EE's approved repairers.

I've set out above why I think EE acted fairly when declining to repair or replace Mr S's phone at the point they made this decision. This is why I'm not directing EE to take any further action in relation to this complaint. But EE has made an offer which may lead to Mr S's phone being repaired or replaced. I leave it for Mr S to decide if he wishes to take EE up on their offer and if so, he will need to contact EE directly to arrange this. However, should Mr S be unhappy with outcome of any inspection, then this is something he may be able to raise separately with EE and the Financial Ombudsman.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 March 2026.

Carl Bibby
Ombudsman