

## The complaint

Mrs H complains that EE Limited is asking her to repay a fixed-sum loan agreement and mobile phone contract.

## What happened

My provisional decision of 14 January 2026 set out the background to this complaint:

*“In September 2024, Mrs H ordered a new mobile phone with EE. It provided her with a 24 month fixed-sum loan agreement for the phone and a 24 month airtime contract. Mrs H said she ordered the phone with EE as it would have given her £480 for trading in her old phone.*

*Mrs H received a delivery from EE via a courier. She said that when she opened the bag containing the phone in the evening, she found a box without a phone in it. She said the seals on the device box were incorrectly placed, so the box could be opened without damaging the seal.*

*Mrs H called EE the next morning to complain. In response, EE said the delivery label matched the weight of the device when it was sent from its warehouse to its courier, and it had provided photographic proof its parcel was delivered to Mrs H. However, EE accepted it hadn't kept Mrs H updated about her claim and said it would make a £100 payment towards her account.*

*Mrs H referred her complaint to our service. At our investigator's request, she provided a photo of the bag the phone was delivered in which, on closer inspection, had a second, blank, sticker on the back of it. The sticker appears to be hiding a cut in the bag that was visible only on the inside of the bag. Mrs H felt the second sticker had been placed on the bag after it was cut open to remove the phone.*

*One of our investigators asked EE to comment on Mrs H's new evidence and asked if it was normal practice for the bag to have two stickers on it. EE said there was no proof the cut in the bag was not done after the phone had been delivered to Mrs H. It added its courier would be unable to investigate things since over 12 months had passed since the phone was delivered.*

*On balance, the investigator thought the phone hadn't been delivered. The delivery photo only showed the front of the parcel, so this didn't prove the bag did not have a second sticker on the back of the parcel covering a cut. They noted Mrs H had reported the problem the morning after opening the parcel and had reported the matter to the police. To put things right, the investigator recommended EE end the agreement with nothing further to pay, refund any payments Mrs H had made (with interest) and remove any information about the agreement from Mrs H's credit file.*

*EE didn't accept our investigator's opinion. They said Mrs H hadn't brought the second sticker to their attention until after the claim was referred to our service and there was no*

*evidence to show it was present when the phone was delivered.”*

My provisional findings were as follows:

*“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*Under the Consumer Rights Act 2015 (CRA), the contract between Mrs H and EE is to be treated as including a term that EE must deliver the goods to her, unless they have agreed otherwise. The phone Mrs H ordered remained under EE’s risk until it was delivered into her physical possession. Here, Mrs H says EE failed to deliver the goods and has highlighted a second sticker on the bag the phone was supposedly delivered in. The photos I’ve seen show a sticker covering a cut, or tear, in the bag. The cut appears to be large enough to remove the box the phone was supposed to be inside. The seals on the box do not appear to have secured the box, so it looks like the phone inside it could have been removed.*

*EE has said no additional stickers are usually added to a parcel. It’s not clear the sticker on the back had any purpose – it appears to be blank.*

*EE says there is no proof that the sticker was not added after the device was taken out of the box by Mrs H. Equally, it hasn’t been shown that the sticker was added at a later date. As the experts here, it was for EE to investigate Mrs H’s claim and it hasn’t shown it has previously ever asked her about the bag. It also hasn’t shown it provided any detailed investigation with the courier who delivered the bag to find out what could have happened after it left the courier’s warehouse. EE also hasn’t shown the phone was used and registered to the phone number linked to Mrs H’s account.*

*On balance, I think it’s unlikely the phone she ordered was delivered to Mrs H’s home address. She raised the matter promptly with EE and her testimony has been consistent and persuasive. I think the bag shows signs it was tampered with and, as the box was unsealed, I think it’s likely the phone was not in the box and was not, therefore, delivered into Mrs H’s physical possession. Because of this, I think there was a breach of contract on EE’s part. I don’t think it’s fair to ask Mrs H to pay for something she didn’t receive.*

*In the circumstances, I think the most appropriate remedy is for Mrs H to receive a full refund of the payments she’s made towards the phone and for any remaining sums owed to EE be cancelled.*

*As Mrs H was left without use of the money paid towards the loan agreement for other purposes, it is also fair for EE to add interest at a rate of 8% simple to any repayments they refund to her from the date each payment was made until this complaint is settled.*

*If Mrs H had not ordered the phone from EE, it’s likely she would not have entered into an airtime contract with EE. However, she was also able to make use of the airtime contract if she wanted to do so. So, I think the fairest outcome is that EE allow Mrs H to exit the airtime contract without any penalty or further cost to her.*

*Mrs H says she would’ve received £480 for trading in her old phone with EE. Whilst I don’t doubt her testimony, I’ve not been provided with evidence to show this amount was agreed with EE – I don’t have a copy of a trade-in offer or record of the condition of her old phone in September 2024. So, I’m not minded to recommend Mrs H be reimbursed for the loss she says she’s incurred.*

*EE has accepted failings in its communication with Mrs H. I’m also not satisfied it kept her updated or undertook a reasonable investigation into her claim. I think its offer of £100 compensation for the distress and inconvenience caused was fair in the circumstances. I*

*note it credited her account with £100, which Mrs H says reduced her direct debit payments rather than being transferred to her bank account. I think £100 fairly and reasonably reflects the inconvenience caused, although EE should ensure this has been paid to Mrs H directly rather than reducing the balance owed on the loan account.*

I then set out that EE Limited should do the following to put things right for Mrs H:

1. *Refund any payments Mrs H has made towards her loan agreement.*
2. *Add interest at a rate of 8% simple to the refund in part one of this settlement, from the date of each repayment was made, until the date of settlement of this complaint.*
3. *Allow Mrs H to exit her airtime contract at no cost to her.*
4. *Remove any record of the loan agreement and airtime contract (if applicable) from Mrs H's credit file.*
5. *It's not clear where EE made the payment of £100 to. If EE hasn't already made the payment directly to C's bank account, it should now do so."*

Mrs H accepted my provisional decision, and EE didn't respond.

### **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've not been provided with any new evidence or arguments to consider, so I have no reason to depart from my provisional findings. So, EE Limited should:

### **Putting things right**

1. Refund any payments Mrs H has made towards her loan agreement.
2. Add interest at a rate of 8% simple to the refund in part one of this settlement, from the date of each repayment was made, until the date of settlement of this complaint.
3. Allow Mrs H to exit her airtime contract at no cost to her.
4. Remove any record of the loan agreement and airtime contract (if applicable) from Mrs H's credit file.
5. It's not clear where EE made the payment of £100 to. If EE hasn't already made the payment directly to C's bank account, it should now do so.

### **My final decision**

I uphold this complaint and require EE Limited to do what I have set out above.

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

Victoria Blackwood  
**Ombudsman**