

The complaint

Ms F is unhappy EE Limited has supplied her with a faulty phone, which she paid for with a fixed sum loan agreement.

What happened

Ms F took out a contract for a new mobile phone in August 2025. She financed the phone with a fixed sum loan agreement provided by EE.

Ms F then reported problems with the phone during 2025:

- In August, EE says it gave Ms F help over the phone to resolve issues with the Multimedia Messaging Service (MMS) on her handset.
- In September, Ms F reported further issues with MMS on the phone. EE says Ms F also wasn't happy there were charges for these messages.
- In October, Ms F reported the phone was powering off and she had issues accessing voicemail. EE transferred her to the manufacturer for these issues.

In November 2025, Ms F took the phone to an EE store as she was still unhappy with the issues using the phone. EE said it could send the phone off for repairs, but it couldn't lend her a replacement, because there wasn't one available at the time. However, Ms F wasn't happy to go without a phone for the duration of the repairs.

EE offered to replace Ms F's phone with a "Good As New" handset. Ms F didn't accept this as she said her phone was brand new when she bought it and was only a few months old. She said EE should replace the phone with a brand-new handset instead and complained.

EE responded to the complaint but said the manufacturer was responsible for problems with the phone. It explained it would only offer a brand-new replacement if the phone was reported as faulty within the first 30 days, under its warranty. Ms F brought the complaint to our service, explaining she thought EE should give her a brand-new handset in line with her rights under the Consumer Rights Act 2015 (CRA).

Our Investigator said EE was responsible for making sure the phone it supplied was of satisfactory quality. But, she said EE had already offered to repair the phone or replace it with a "Good As New" handset – and she thought these were fair options. So she didn't think EE needed to do anything further to resolve Ms F's complaint.

Ms F didn't agree and raised several points:

- She said the Investigator hadn't fully considered her rights under the CRA, specifically sections regarding the remedies available and liability on the parties.
- She said a refurbished phone is a "second hand" phone with issues.
- She disputed some of the information the Investigator had relied on from EE and said its records and timeline weren't accurate.

- She thought the Investigator had been biased and Ms F said she didn't have the background to ensure a fair outcome in her favour as a "layman".
- She said the loan agreement had been mis-sold as she thought it had a 24-month term, not the 36-month term the Investigator had stated.
- EE hadn't told her there was a £79 cost to replace the phone under the manufacturer's warranty.

As Ms F didn't agree, the complaint has been passed to me for a final decision.

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 agree with the outcome reached by the Investigator – and for broadly the same reasons.

Ms F has made several detailed points in her complaint and referred to specific sections of the CRA. I've considered everything she's said, the CRA and all the information on the file. But in my decision, I don't intend to refer to everything or address every point made. I mean no discourtesy by this, instead I will focus on what I see as being the key outstanding points following the Investigator's outcome, and the reasons for making my decision.

Ms F bought the phone using a fixed sum loan agreement, which is a form of regulated consumer credit. As such, our service can consider complaints about the agreement.

The CRA is relevant to this complaint, as it implies terms into the contract that the goods supplied will be of satisfactory quality. By satisfactory quality, the CRA says this is what a reasonable person would consider satisfactory, when taking into consideration the price, description and other relevant circumstances.

In addition, the CRA sets out the remedies available to consumers if the goods supplied aren't of satisfactory quality. It says that if goods are found to be faulty within the first six months, it's assumed the fault was present when the goods were supplied, unless there is compelling evidence to suggest otherwise. After the first six months, it's reasonable to expect Ms F to show the goods weren't of satisfactory quality.

Ms F bought a brand-new phone with a cash price of around £1,200 – so I think she could reasonably expect it to have been fault free for a considerable time after it was supplied. However, Ms F reported issues with the phone within the first three months of supply.

I've noted Ms F doesn't agree with the timeline EE has presented, and she's questioned the records it kept. These records suggest Ms F was a range of issues with the phone as early as August 2025. EE provided the account notes suggesting Ms F called to report issues with sending MMS, the charges for these messages and her voicemail service. As these issues relate to data and airtime services, I think it's most likely these calls didn't relate to a fault with the phone itself. Instead, I've focused on the problem Ms F reported in October 2025, when she said the phone was turning off unexpectedly.

If there is a fault with the phone, I think it's reasonable to say it was present at the time EE supplied the phone to Ms F, as she reported the problem within the first few months. Neither Ms F nor EE can say exactly what was wrong with the phone at this point. This is because EE hasn't had the opportunity to inspect the phone and take it apart to find the fault. So I can't say with certainty that there is an inherent fault with the phone, which was present or developing at the time of supply.

But I understand EE accepts the phone isn't working and has offered Ms F two different remedies to put things right. So I think EE has accepted the phone is faulty, and that it is responsible for making the phone conform to the contract. I'd therefore expect EE to provide Ms F with a remedy in line with those set out in the CRA.

The CRA says Ms F could request a repair of the goods, or a replacement, as long as these aren't impossible or disproportionate remedies.

EE has already offered to repair the phone without charge, and I think this is a fair remedy in line with the CRA. I understand it would be inconvenient for Ms F to be without a phone for the duration of the repair, and a temporary handset might not be available for her. When Ms F contacted the manufacturer it also couldn't diagnose the fault without sending the phone away for repair. So, I don't think it's unreasonable EE says it needs to do this.

As a repair is in line with Ms F's statutory rights under the CRA, I don't think it's unfair for EE to offer this. So, I don't think EE needs to do more than this to resolve the complaint.

As an alternative, EE has also offered a replacement handset which would fall under its "Good As New" range of used phones. I've looked at the terms and conditions on EE's website, and these explain "Good As New" handsets are ones returned to EE within the 14-day cooling off period, and "*have been used so little that they're practically brand new... they've never been in for a repair due to a known fault*". These are different to refurbished phones, and I appreciate there has previously been some confusion about the type of replacement EE is offering.

I understand Ms F feels strongly that EE ought to provide a brand-new replacement, and in some circumstances this might be fair. But, EE has offered to provide a handset that would have no known faults, wouldn't have been returned for a repair previously, and would have only been used for up to two weeks. As Ms F was able to use her handset for around two to three months before she reported the fault, I think the replacement EE is offering is a proportionate and fair alternative to repairing the phone. It may also reduce the inconvenience Ms F would face, as she may not be left without a phone for as long as a repair.

I've thought about whether EE needs to refund Ms F for the time her phone has been faulty. However, I don't have enough information from EE or Ms F to understand if the phone can still be used, or if the fault significantly impairs it. I'm also mindful that EE offered suitable remedies to Ms F promptly, and as she didn't accept these remedies, she may not have taken reasonable steps to mitigate the impact of the fault. If Ms F thinks her use of the phone has been affected by the fault, she might need to raise this for EE to consider after it has completed one of the remedies offered.

Having thought carefully about the circumstances of this complaint, I think EE has already offered Ms F a fair remedy by agreeing to repair the phone it supplied. If Ms F wants to instead accept the replacement phone, to minimise the inconvenience, I think this would be a fair alternative remedy too.

Other considerations

Ms F says EE didn't tell her there was a cost for the manufacturer to replace the phone under warranty. The warranties provided by EE and the manufacturer aren't something our service can consider a complaint about. So, I can't consider if EE has acted fairly when applying the warranty terms to Ms F's claim. I also can't consider the actions the manufacturer might take or any costs to replace the phone under its own warranty.

I can consider if EE gave Ms F accurate and clear information when she spoke to it about the problems she was having with her phone. I haven't been provided with the call from October 2025, so I only have the brief notes on Ms F's account, and her testimony. However, even if I accept what Ms F says happened, I don't think EE reasonably ought to have known the details of the manufacturer's warranty, or that there might be a charge to replace the phone that way.

EE also told Ms F she could receive a loan phone while hers was being repaired but was told in store that this wasn't available. EE has explained that temporary loan handsets are subject to availability, but I can understand it must have been frustrating for Ms F to hear this after travelling to the store. EE apologised for the inconvenience here, and overall I think this was enough to put things right for this part of the complaint.

Ms F has raised other points in response to the Investigator's findings, which hadn't been raised to EE before. In particular, she says she thinks EE mis-sold the loan agreement as she thought it was only for 24 months. If Ms F wants to complain about this, she would first need to make the complaint to EE directly. She may then be able to bring the complaint to our service if she remains unhappy.

My final decision

My final decision is that I do not uphold this complaint. EE Limited offered to repair the phone, and I think it should do this, to the extent it hasn't already done so.

If Ms F now wants to accept the replacement offered by EE Limited, I see no reason why EE Limited shouldn't go ahead with this instead of the repair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 5 May 2026.

Hannah Dunkley
Ombudsman