

The complaint

Mr H complains about the service provided to him by Telefonica UK Limited (trading as “O2”) in respect of four fixed sum loan agreements he took out for two mobile phones, an Apple Watch and an iPad.

What happened

In 2022, Mr H took out a number of separate Refresh plans with O2. Refresh plans split the monthly bill – between the airtime agreement and the device finance agreement (“finance agreement”) allowing a consumer to upgrade their device at any time after paying off the finance agreement.

On 18 July 2023 Mr H called to cancel these O2 Refresh plans as he had network issues and was dissatisfied with the customer service he had received. In order to address this, O2 disconnected Mr H’s airtime and provided PAC codes for the numbers he wished to transfer over to other providers.

With regard to the finance agreements, Mr H asked for these to be consolidated and a payment plan set up so he could continue to pay this outstanding sum monthly.

On 8 August 2023 Mr H called O2 again and expressed his dissatisfaction at the time taken setting up his payment plan. O2 told him he would need to wait for a final bill which would confirm the outstanding amount due.

Mr H was subsequently informed by O2 that the consolidated payment plan wasn’t possible and that he had been mis-informed prior. When an O2 Refresh airtime agreement is terminated within the first 24 months, the terms and conditions state that the outstanding amount on the finance agreement would then need to be paid in full. O2 accepted that this wasn’t correctly explained to Mr H.

On 19 September 2023 O2 sent a final response letter (“FRL”) to Mr H upholding his complaint. In order to address this, O2 said in their FRL that they had written off two of the airtime agreements of £42.15 and £15.86 and the Apple Watch agreement of £38.97. With regards to the remaining three finance agreements, O2 said they still couldn’t allow Mr H to continue paying these off monthly until the end of each contract due to limitations on their systems.

O2 also offered Mr H the opportunity to return the devices so that they could bring the remaining balances to zero. Mr H didn’t consider this a fair outcome to what’d happened and felt he was entitled to keep the remaining devices and the respective finance agreements should be written off.

Mr H’s complaint was considered by one of our investigators who came to the view that it wouldn’t be fair for Mr H to keep the three devices and expect O2 to write off the remaining balances. While he accepted O2 couldn’t consolidate the plans into one monthly payment, he did consider it reasonable for a separate payment plan to be set up for each device not returned.

He also felt it fair for adverse credit information recorded with credit reference agencies for the three finance agreements be removed by O2 and £150 compensation paid for the distress and inconvenience suffered by Mr H.

Neither party accepted the investigator's view so Mr H's complaint has been passed to me for review and 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 can confirm that I've come to the same overall outcome as the investigator and for broadly the same reasons. There is also very little I can usefully add to what has already been said.

Having reviewed everything the parties have said and submitted I'm satisfied that payments under the remaining three finance agreements are still due. Mr H agreed to the terms and conditions of these finance agreements and has had benefit of these devices – and therefore O2's offer to write off the finance agreements on any devices returned is fair and reasonable.

However I do consider Mr H is also entitled not to return the devices and therefore O2's offer doesn't allow any opportunity for this, beyond paying each of the finance agreements in full. While I appreciate O2 has said they're not able to facilitate any new payment plans, it would be fair in the circumstances for it to do so, with Mr H paying what he originally agreed, over the number of months remaining under the finance agreements on the date Mr H requested cancellation.

The outstanding amount on the Apple Watch device plan was £38.97 and I don't think this is fair compensation for the distress and inconvenience suffered by Mr H. I do consider an additional £150 compensation is more appropriate for what's happened.

My final decision

- write off any finance agreements for devices returned by Mr H.
- arrange new payment plans for any devices Mr H chooses to keep, set at what he originally agreed to pay over the number of months that were remaining under the finance agreements on the date Mr H requested cancellation.
- pay £150 compensation for the distress and inconvenience this matter has caused him
- remove any adverse information they've recorded with credit reference agencies in respect of the three finance agreements

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 May 2024.

Viral Patel
Ombudsman