

## **The complaint**

Mr M complains about two fixed sum loan agreements and an airtime contract, taken out in his name with Telefonica UK Limited trading as O2.

## **What happened**

In August 2022, Telefonica approved an application for two fixed sum loan agreements and an airtime contract, using Mr M's personal details. The fixed sum loan agreements were used to pay for two brand new mobile telephone handsets.

Over the following months, Telefonica didn't receive any repayments due under the agreements. So, in January 2023 Telefonica sent Mr M a letter to say they would stop providing the airtime service.

On receipt of the letter, Mr M contacted Telefonica to say he hadn't taken out any agreements with them. He said that a fraudster had used his personal details to get the handsets.

Telefonica continued to pursue Mr M for the balance of the loans and the airtime contract. But, they didn't respond to Mr M's concerns that he was the victim of fraud. However, in March 2023 and after a complaint from Mr M, Telefonica began a fraud enquiry.

Around a month later Telefonica accepted that the loan agreements and the airtime contract were opened by a fraudster, using Mr M's details. In their final response to Mr M's complaint, Telefonica apologised for the delay in their review and said they would remove Mr M from any connection to the accounts. Mr M didn't accept Telefonica's response and brought his complaint to us.

One of our investigators looked into Mr M's case and agreed that Telefonica had treated Mr M unfairly. The investigator concluded that Telefonica had taken the necessary steps to remove the agreements from Mr M's credit file. But, the investigator also found that Telefonica should pay Mr M £250 for the distress and inconvenience he had experienced.

Mr M didn't agree with the investigator and said the connection to the fixed sum loans, meant borrowing became more expensive and that other lenders had reduced the amount of credit available to him. So he asked the investigator to reconsider the level of the payment for distress and inconvenience.

Mr M also said Telefonica should change their process for looking at fraud, so others won't suffer in the same way as him. Additionally, Mr M said Telefonica should offer him a further apology.

The investigator didn't change his findings, so Mr M's case has now been passed to me to make a decision.

I sent Mr M and Telefonica my provisional decision on this case, on 12 February 2024. I explained why I think the complaint should be upheld. A copy of my provisional findings is

included below:

*This case is about two fixed sum loan agreements which Mr M took out with Telefonica. These types of loans are regulated financial products, so we are able to consider complaints about them.*

*We don't have the power to look at the performance of the airtime contract taken out in Mr M's name. But, as the performance of that contract isn't part of Mr M's complaint, I have considered the steps Telefonica have taken to remove Mr M's responsibility for the airtime service.*

*Having thought about the events in the lead up to and after Mr M's discovery of what had happened, I acknowledge the shock and worry he must have experienced. It could not have been easy for Mr M to try and sort out the agreements, as well as to deal with the other challenging personal circumstances he has told us about.*

*Although I do empathise with Mr M, I must also keep in mind that it was the fraudster who instigated the applications for the fixed sum loans and ultimately took the handsets. And that the initial worry Mr M experienced, was caused by the fraudster's actions.*

*Telefonica have accepted that the fixed sum loan agreements and the airtime contract were taken out by a third party without Mr M's authority, or apparent authority. I understand why Mr M may want to know how the third party was able to do that. But, in view of Telefonica's acceptance of the third party's actions, I've concentrated by review on how fairly they treated him, once they were made aware of Mr M's concerns.*

*This means, I've looked at the time Telefonica took to put things right and the steps taken to compensate Mr M for any delay. So, I've considered the overall impact on Mr M to decide if Telefonica's current offer is fair. I've also thought about other the help Telefonica could provide, to make things better for Mr M.*

*The contact notes provided by Telefonica show that Mr M told them about the fraud on 12 January 2023. Telefonica accepted that Mr M didn't authorise the opening of the accounts, in their letter to him on 17 April 2023. This means it took over three months for Telefonica to investigate Mr M's concerns and provide an outcome.*

*Within those three months, I can see that Mr M was contacted regularly by Telefonica and then a debt collection agency, to ask him to repay the outstanding debt owed. Telefonica's notes also show that Mr M replied to Telefonica on each occasion. And I can see for the information Mr M has sent to us, that he had reported the fraud to the police.*

*Telefonica's contact records go on to show that it wasn't until 9 March 2023, where they started to engage with Mr M's concerns and to ask him for supporting information. I can see that Mr M was prompt in getting the information back to Telefonica and they were able to reach their conclusions, around four weeks later.*

*I think Mr M consistently replied within a day of being asked questions by Telefonica, with the information he was asked for. So, I don't think he was responsible for any delay. On balance, I think Telefonica were able to reach their outcome in around a month, once they had the information they needed. This means there was a two month delay caused by Telefonica, from when they first became aware of Mr M's concerns.*

*Overall, I'm not persuaded that Telefonica handled Mr M's concerns about the fraud in a reasonable timeframe. So, I've thought about the impact of this delay on Mr M.*

*Mr M has provided documents to show the interest rate change in a car finance deal and where his various other lenders have lowered the limits on the credit available to him. Mr M has also sent us details of his credit report, showing his credit score history throughout the first half of 2023. I can see that Mr M's credit score started to reduce from January 2023 and had increased from May 2023. This trend is consistent with the time where agreements fell into arrears.*

*However, I'm not persuaded that I can say Telefonica is responsible for all the decisions made by the lenders connected to Mr M. This is because there are many variables used by credit reference agencies and lenders to make borrowing decisions. On balance, I don't think the evidence carries enough weight to suggest that the information about the fixed sum loans and airtime contract, was the only reason behind the lines of credit, available to Mr M.*

*That said, I do think the delay caused by Telefonica added to the worry that Mr M was encountering. He's explained to us about some difficult personal circumstances he faced at the time and where Telefonica didn't engage with him about the third party taking out borrowing using his personal details.*

*I acknowledge that Telefonica are willing to make a payment to Mr M, in recognition of the trouble and upset the delay has caused to him. However, I think Telefonica should increase their current offer, against the background of the impact their delay had on Mr M. In all the circumstances, I think it would be fair for Telefonica to pay Mr M £350 for the distress and inconvenience he has experienced.*

*Moreover, I think Telefonica can help Mr M show credit reference agencies and his other lenders, where he has been the victim of fraud. I think Telefonica should provide Mr M with a letter, that he can send to his various credit providers, which explains that a third party had used Mr M's personal details to open the fixed sum loan agreements and the airtime contract. The letter should also detail the dates involved and that Mr M isn't responsible for any debt or missed payment information connected to the accounts opened with Telefonica.*

*I should point out, that I make no finding about what any lender should do, off the back of receiving Telefonica's letter. That will be up to the lenders themselves to decide.*

*Finally, during Mr M's correspondence with the investigator, he has asked for Telefonica to apologise. Within Telefonica's final response letter to Mr M of 17 April 2023, I can see that they apologised for the delay in looking into his concerns about the fraud. Given what I've seen, I don't think Telefonica need to offer a further apology. I think the wording in the letter is sincere and acknowledges where they could have done better.*

Mr M responded to the provisional decision and accepted it. But, in summary, he also said:

- he wanted to know what identification was used to open the fixed sum loan agreements with Telefonica; and
- he didn't get Telefonica's apology dated 17 April 2023.

Telefonica responded to the provisional decision and accepted it.

### **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.

As Mr M and Telefonica accepted my findings I see no reason to depart from the

conclusions I reached in my provisional decision.

I'd like to add though, that I recognise the reasons why Mr M would like to know what identification the fraudster used to open the fixed sum loan agreements with Telefonica. But, where Telefonica have found that Mr M didn't authorise the opening of the agreements, it hasn't been necessary for me to consider how it happened. Instead, my investigation has focussed on the steps put into place by Telefonica, to put matters right.

I'm aware that Mr M may have already requested information about the opening of the fixed sum loan agreements from Telefonica. While I acknowledge what I've said won't answer the questions Mr M has asked, I must leave it for him to decide if Telefonica have fulfilled their obligation to provide him with all the information they needed to.

Moreover, I can see that Mr M provided us with a copy of the email sent to him by Telefonica on 17 April 2023. So, I think Mr M already has a copy of Telefonica's apology and I don't think Telefonica needs to send another.

### **Putting things right**

For these reasons, I require Telefonica UK Limited trading as O2 to:

1. Provide Mr M with a letter for him to send to credit reference agencies and to his borrowing providers, which explains that Mr M has been a victim of fraud, and that he isn't responsible for the associated debts from the two fixed sum loan agreements and the airtime contract; and
2. Pay Mr M £350 for the distress and inconvenience caused.

### **My final decision**

My final decision is that I uphold this complaint and require Telefonica UK Limited trading as O2 to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 March 2024.

Sam Wedderburn  
**Ombudsman**