

## **Complaint**

Mr T is unhappy that Assurant General Insurance Limited turned down his claim for theft.

## **Background**

Mr T has a packaged bank account. One of the features of that account is a mobile phone and gadget insurance policy that is underwritten by Assurant.

In January 2021, he was the victim of theft. He'd recently paid for and taken delivery of three iPhones, a MacBook and an Apple watch. He'd placed the order for these items in December and intended that they be Christmas gifts. Unfortunately, the delivery was delayed and so he didn't receive them until after Christmas.

He arranged for the items to be delivered to a friend's address because he'd experience difficulties with deliveries at his own. After he received the items, he left in his car and made a stop at a bank on the high street. He left these items in a shoebox under the front passenger seat of his car and obscured them from view using a large leather bag which contained the MacBook. When Mr T returned to his car, he found that the window had been smashed and the items taken.

After informing the police, he called Assurant. It declined his claim because it didn't think Mr T had taken care of the items. It relied on an exclusion in the policy that said the policyholder should store items out of sight wherever possible. It said that it thinks he had left the items visible which enabled an opportunistic thief to steal them. It questioned why he hadn't locked the items inside the boot of his car, rather than leaving them under the passenger seat.

Mr T wasn't happy that Assurant declined his claim and complained. Assurant was satisfied it had correctly declined the claim and so Mr T brought his complaint to this service. It was looked at by an Investigator who upheld it and asked Assurant to reconsider his claim. The Investigator thought that Mr T had taken reasonable care of the devices and that it was likely they had been kept out of sight. He explained that Mr T told him he hadn't moved the items to the boot because he thought that might be a riskier move – i.e. it might have alerted someone to the likelihood that he was securing something valuable.

Overall, the Investigator thought the exclusion didn't apply to Mr T's claim because he didn't think the items had been left on display in the car. Assurant disagreed with the Investigator's opinion. It argued that the items must have been visible if they'd tempted someone to break into his car and steal them. It reiterated its view that the items would've been safer if Mr T had stored them in the boot of his car.

As Assurant disagreed with the Investigator's opinion, the complaint has been passed to me to consider and come to a final decision.

## **Findings**

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 don't find that Assurant can rely on this exclusion to decline Mr T's claim. The exclusion says:

*We know how important your device is to you and we expect that you will take care of it. If you don't take care of your device, then we may not pay your claim.*

*Taking care of your device means:*

- *Not knowingly leaving your device somewhere it is likely to be lost, stolen or damaged. Just think, would you leave your wallet or purse there?*
- *If you need to leave your device somewhere then we expect you to lock it away out of sight if at all possible. If you cannot lock it away then you must leave it with someone you trust or concealed out of sight in a safe place.*

*If you knowingly leave your device where others can see it but you cannot, and your device is then lost or stolen, we may not pay your claim.*

*[...]*

*... if you knowingly do any of the below we may decline your claim for not taking care of your device:*

- *leaving your device somewhere you can't see it but others can.*
- *leaving your device on display in your car.*

From Mr T's description, the items were locked away (i.e. he locked his car before going into the bank) and they were out of sight. The phones were stored in a shoebox that gave no indication as to its contents. The MacBook was stored in a large all-purpose leather bag – so an opportunistic thief couldn't have known that it contained an expensive laptop.

Assurant has argued that Mr T plainly recognised that there was a risk and that was why he concealed the items. But that is what the terms of the policy expect of him – to be heedful of circumstances where his devices might be at risk of theft and act carefully in such circumstances. Assurant's point that the theft couldn't have happened if the items weren't visible is well made but it doesn't persuade me to change my position. Mr T clearly believed that he had concealed the devices effectively and so he can't be said to have knowingly left them where others could see them.

Overall, I don't think that Mr T can be said to have knowingly left the devices somewhere they were on display or likely to be stolen and so I'm not persuaded that Assurant can decline his claim by relying on this exclusion.

## **Final decision**

For the reasons I've explained, I uphold this complaint.

Assurant General Insurance Limited should reassess Mr T's claim in line with remaining terms of his policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 18 May 2022.

James Kimmitt

**Ombudsman**