

The complaint

Mr D is unhappy that WDP Insurance Limited (WDP) declined his claim for loss under his mobile phone insurance policy.

What happened

Mr D explained the circumstances of his claim as follows:

- He bought a new phone and insurance while on holiday.
- He arranged for the phone to be delivered to his home address.
- The phone was a gift for his partner.
- On return from holiday late evening, he went straight to meet his partner for drinks/dinner, asking her to bring the package along.
- Mr D and his partner argued, and she threw the package towards the river without knowing that the new phone was inside.
- Neither of them looked for the phone because Mr D said the relationship was more important than doing so.
- The following day, Mr D claimed under his policy.

After taking some time to investigate the claim, WDP declined it because, *“we do not believe the incident you described took place”*.

WDP cancelled the policy in line with its permitted actions for fraudulent claims.

Mr D was unhappy with WDP’s decision and brought his complaint to our service.

Our investigator didn’t think WDP had declined his claim and cancelled the policy fairly for the reason it gave. While WDP made it clear it didn’t believe Mr D’s account of events, she didn’t think it had told him it declined his claim under the fraud condition. Our investigator also thought WDP hadn’t handled the claim as well as it should’ve done, with delays and failure to contact Mr D on occasions. She recommended that WDP should pay Mr D £100 compensation and remove any fraud markers from Mr D’s records.

WDP didn’t agree. It said telling Mr D his claim was declined because it didn’t believe what he’d said was a clear decline under the fraud condition. It also didn’t think it was reasonable to pay compensation for a claim it considered fraudulent. After both parties provided further information, our investigator repeated her recommendations.

WDP still didn’t agree, so the complaint was passed to me to decide.

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 decided to uphold Mr D’s complaint and I’ll explain why.

The main issue is that Mr D doesn't think WDP declined his claim fairly under the policy terms and conditions. WDP said it declined his claim under the fraud condition because it didn't believe his account of the incident.

My role here is to look at whether WDP declined Mr D's claim fairly and in line with the policy, for the reasons it gave.

If a policyholder lies about some of the events leading to a claim that wouldn't really make a difference to the outcome – such as altering the facts for a claim that would be valid even without doing so – I wouldn't consider that to be a fraudulent claim. That's because the policyholder isn't trying to get more than they would've done if they'd simply given a true account of events for a valid claim.

Here, WDP didn't believe Mr D's account of events for the following reasons:

- It doubted that he could've got from the airport to the meeting point in the time he stated.
- WDP thought it unlikely that Mr D would've asked his partner to bring the phone with her just so he could gift it to her over drinks/dinner.
- It thought his account of events was inconsistent because he said they met for dinner, but the restaurant stopped serving food before Mr D arrived.

In response, Mr D provided evidence of train travel on the line from the airport to the meeting place, and a drinks receipt for the evening, albeit at an earlier time indicating his partner was there before he arrived.

Having considered the evidence, I can understand why WDP questioned the account of events. It appears that Mr D went straight from the plane to the restaurant very quickly, especially given the pandemic-related travel restrictions in place at the time. But I don't think WDP has shown that Mr D lied about how he lost the phone. His account of the actual loss - that his partner threw the package during a heated argument and he chose to save the relationship rather than look for the phone - sounds plausible. And however implausible the travel to the meeting place seems to WDP, I can't reasonably say that means Mr D lied about how he lost the phone.

WDP told Mr D that it didn't believe the incident he described took place and it applied the fraud condition. That meant it declined his claim and cancelled the policy. Although I haven't seen that WDP told Mr D directly that it considered his claim fraudulent, I'm satisfied that it did offer him the chance to provide evidence to support his story, which he did.

The situation here is that Mr D gave a reasonable explanation of how he lost his phone. If the nature of the loss was covered under the policy, his account of the events leading up to the loss wouldn't necessarily have affected the validity of his claim. That is, it wouldn't have mattered how Mr D got to the meeting place, or how late it was, because the phone was still lost in the way he described. So, I've looked at the policy to see whether it's likely Mr D's claim would've been successful irrespective of the way he got to the meeting place.

In summary, while the account of events leading up to the loss may be subject to some doubt – that is, how and when Mr D got to the meeting place - I don't think WDP has provided anything to support its view that he didn't lose the phone. So, for the reasons I've given here, I don't think it was fair that WDP cancelled Mr D's policy and declined his claim in line with the fraud condition.

With that said, I don't plan to ask WDP to settle Mr D's claim. That's because it first needs the opportunity to reconsider it under the remaining terms and conditions of the policy. However, I think it's fair to ask WDP to remove any record of the claim being declined under the fraud condition. That's because it would have a lasting effect on Mr D when buying insurance, yet WDP hasn't provided enough evidence to say Mr D submitted a fraudulent claim.

Moving on, Mr D was unhappy with the way WDP handled his claim. He said it didn't contact him when it should've done, and it delayed giving him a decision. WDP apologised for the delay assessing his claim and for the failure to contact him on occasion.

There's no dispute that the service could've been better. And having considered the claim records, I understand Mr D would've been frustrated by this. Our investigator recommended compensation of £100, but WDP didn't think it was warranted.

I understand WDP didn't think it was appropriate to pay compensation for a claim it declined under the fraud exclusion. However, as I've said, I don't think the evidence supports WDP's view that the claim was fraudulent. And, having considered the evidence, I'm satisfied that compensation at the amount proposed is warranted. I can see that Mr D experienced distress and inconvenience when WDP told him it didn't believe his story, yet he was able to provide evidence which supported many aspects of it. I also note that the records show WDP didn't contact Mr D every time it should've done.

Putting things right

To put matters right, I think it's fair for WDP to reassess Mr D's claim in line with the remaining policy terms and conditions. To be clear, I'm not asking WDP to settle the claim as it needs the opportunity to consider the claim again without relying on the fraud condition. WDP should also remove any fraud markers against Mr D relating directly to this claim, and pay him £100 compensation for the distress and inconvenience he experienced.

Mr D confirmed he doesn't want the policy reinstated because the phone is no longer available to him.

My final decision

For the reasons given above, my final decision is that I uphold the complaint and WDP Insurance Limited must:

- reconsider Mr D's claim under the remaining terms and conditions of the policy
- remove any fraud markers directly related to this claim, and
- pay £100 compensation for the distress and inconvenience this matter caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 8 August 2022.

Debra Vaughan
Ombudsman