

The complaint

Mrs O complains about a claim she made under a mobile phone insurance policy with Assurant General Insurance Limited.

What happened

At the end of March 2022 Mrs O let her daughter use her phone on a night out as she wanted to take quality photographs. Mrs O was told by her daughter that the phone was missing and possibly stolen. Mrs O reported the loss of the phone to Assurant and the police.

But it was subsequently found at the venue Mrs O's daughter had gone to, appearing to have been dropped and damaged after being run over by a vehicle.

Mrs O told Assurant on her first call that another SIM card had been used in the phone on the night it was lost. And in a subsequent call the SIM cards were discussed.

Assurant says that Mrs O told the claims-handler that a different SIM card was in the phone when it was lost. Assurant refused the claim, as it said Mrs O had provided them with "*misleading information*". Assurant says Mrs O knowingly provided conflicting accounts of the usage of her phone and SIM card at the time of the loss. Assurant also cancelled the policy.

Mrs O wasn't happy with Assurant's response. She said that she'd tried to provide the information they wanted but there were some language barriers. And that they'd misunderstood what she'd said. The mobile phone had been lost and damaged and she feels Assurant should have dealt with her claim. She referred her complaint to us.

Our investigator said that Assurant should reconsider the claim. He said the policy terms require fraud to be established for Assurant to refuse a claim and there was not enough evidence of fraud. He said Assurant should reconsider the claim and pay Mr T £150 compensation for the distress and inconvenience caused.

Assurant haven't responded to the investigator's outcome, so Mrs O's complaint has been referred to an ombudsman 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.

Having done so I'm upholding this complaint.

Assurant has declined Mrs O's claim on the basis she'd made a fraudulent claim as her account about the phone varied. But I'm not satisfied that Assurant has done enough to establish this and will explain why.

I've listened to the phone calls made by Mrs O, in the first call, Mrs O explains that the phone went missing on a night out. But doesn't say that the phone wasn't in her possession when it went missing. There was some discussion about what had happened to the phone and the claim handler asked Mrs O about the SIM card that was in the phone at the time it went missing. Mrs O said "*no another card was in*". The claim handler didn't ask about the other SIM card and referred back to the SIM card for Mrs O's phone number ending "020". And I think its clear from this call that Mrs O is struggling to fully understand the questions she's being asked.

From this call Mrs O is passed onto the assessment team and this reinforces my thinking that Mrs O doesn't fully understand the process, terminology, or technology that she is being asked about. And I don't think the claim handler takes the time to explain what he is trying to establish or why. In the end Mrs O gives up and ends the call. Later it's confirmed which SIM card was in the phone at the time it went missing. And its this contradictory information that Assurant has based their decision to refuse the claim and cancel the insurance policy.

Assurant declined Mrs O's claim because she'd given mis-leading information and quoted their terms and conditions. I've considered these terms and conditions, they say:

"If false or inaccurate information is provided and fraud is identified then we may :

- Reject the claim and we may cancel your policy. If an excess has been paid this will be returned."*

I'm persuaded that the incorrect information Mrs O gave was true to the best of her knowledge at the time. She's provided evidence that the phone she was claiming for belonged to her even though she wasn't clear about the SIM card within the phone itself. This misinformation related to the usage of the phone prior to its loss and the SIM card it contained. It doesn't relate to the actual circumstances of the phone's loss, or the amount she's claiming for the phone.

Mrs O was getting information from her daughter and when she called Assurant I don't think she was privy to all the circumstances of how the phone was lost/damaged. Mrs O initially believed the phone had been stolen but its now known following contact with the venue where the phone was lost, and details about the way the phone was damaged.

So, I don't consider that she knowingly provided false and misleading information to Assurant that would have caused a claim to be paid which wouldn't have been paid if correct information had been given. So, I don't think Assurant can say that fraud has been identified.

I consider that Assurant is rejecting Mrs O's claim based on the information she gave being contradictory rather than the circumstances of the loss. And I don't consider that the nature of the contradictory information given by Mrs O to Assurant affects whether she has a valid claim or not, or how much is paid.

Putting things right

As I don't think Assurant has identified fraud, I don't think they have been fair or reasonable in declining Mrs O's claim and cancelling her insurance policy. So, I think Assurant should reinstate Mrs O's insurance policy, re-consider Mrs O's claim subject to the other terms and conditions of her policy should she look to pursue it.

I think this had been a distressing time for Mrs O, she not only lost her phone but has had to consider the implications of having an insurance claim rejected as being fraudulent and her insurance policy cancelled. So I agree with our investigator that Assurant should compensate Mrs O £150 for the distress and inconvenience this has caused.

My final decision

I uphold this complaint. And ask Assurant General Insurance Limited to:

- reinstate Mrs O's mobile phone insurance policy;
- reconsider her claim, should she make it, subject to the terms and conditions of her policy; and
- pay £150 for the distress and inconvenience caused to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 2 November 2022.

Anne Scarr
Ombudsman