

The complaint

Miss S complains about Bastion Insurance Company (Bastion) who offered an under-valued cash settlement following a claim under her gadget insurance policy.

What happened

Miss S phone was stolen, and she contacted Bastion to make a claim. Bastion accepted the claim and offered £300. Miss S wasn't happy with the offer as her own investigations found that the phone value was much higher. So, she complained to Bastion.

Bastion increased its offer to a total of £385, on condition that the cheque would be sent to Miss S' credit provider (Miss S had originally purchased her phone on credit) by cheque. Bastion also said that this offer was in full and final settlement.

Miss S' credit provider would not accept a cheque or indeed any payment from a third party (namely Bastion) as they said the contract was between them and Miss S and no one else. Miss S said that she told Bastion the position and still did not receive any cash settlement. She also explained that she felt that she had been pressurised into accepting the offer. But as there was no way of her getting a settlement, she referred her complaint to our service.

One of our investigators considered the complaint, including whether our service had jurisdiction to deal with the complaint. Given that, Bastion said that as Miss S had accepted its offer in full and final settlement, our service couldn't deal with the complaint.

Our investigator's view was that our service could investigate the complaint especially as there was no way of Miss S receiving the settlement. And he was satisfied that Miss S' replies to Bastion didn't constitute full acceptance of the settlement offer, as he felt that she had clearly disputed the proposed settlement. Furthermore, our investigator looked at the valuation of the phone. He felt Bastion's offer was far lower than what a phone in a similar condition was worth. So, he recommended that Bastion pay £520 as a fair and reasonable valuation for the phone. As well as, £75 for the trouble and upset Miss S experienced.

During the course of our investigator's consideration of the complaint, Bastion paid Miss S £385, which it said represented its assessment of the value of the phone.

Miss S accepted the view, Bastion did not. It accepted that our service had jurisdiction to deal with the complaint, but didn't accept the valuation of the phone, as assessed by our investigator. Bastion said that it believed that the valuation obtained by our investigator was a valuation based on less than 8% of total available listings. It felt that this wasn't fair or accurate and certainly couldn't be used to offer a 'fair valuation' of the device.

Bastion did increase its offer (without including any payment for compensation for the distress and inconvenience caused) to £420. And said that our investigator had shown bias towards Miss S. So, it asked for a decision from an ombudsman.

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 will uphold this complaint. And I hope my findings go some way in explaining why I've reached this decision.

The main issue of this complaint is whether Bastion's valuation of the phone was fair, in the circumstances. I must point out that I have considered all the evidence and points raised by both parties. If I don't mention a point, it isn't because I haven't considered it, I have. But as an informal dispute resolution service, we are tasked with reaching a fair and reasonable conclusion with the minimum of formality. In doing so, it isn't necessary for me to respond to every point made, but to concentrate on the nub of the issue.

I have reviewed the policy terms and conditions to see what Bastion's obligations were when settling claims. Cash settlements are permitted under the policy. But inherent in this, is that the cash settlement ought to allow Miss S to obtain a replacement phone, with the same specification, as her previous insured phone.

The policy also allows for Bastion to source the replacement phone from online selling websites. And Bastion provided a screenshot of phones with similar specifications as that of the stolen phone. Initially Bastion made an offer of £300. Which it said was based on the screenshot it had found on online selling sites. But this offer was increased first to £385 and later to £420.

Although I can see that Bastion said the initial offer was based on the screenshot valuations, there appears to be no information it has provided as to why and what evidence it relied on to increase the offer to £420. In any event, Miss S didn't agree with the offers, as she said they were too low.

Miss S provided evidence that showed that she had purchased her phone new, around six months earlier. The cost of the phone at that time was around £877. Miss S explained that her phone at the time of the theft, was in good condition. And I note that Bastion hasn't refuted this, so I find that this was the case.

Having reviewed the policy, it allows for a replacement (although not new) phone of an equivalent age, condition and value of the stolen phone. I accept that it also allows Bastion to obtain the valuation of a phone from online selling websites. But from the screenshot relied upon by Bastion, I can find very limited information regarding the age, equivalent value or condition of the phones for sale.

I note that Bastion said that our investigator based the valuation of the phone on a very small number of listings, which it said wasn't a fair reflection of the valuation of the phone. Yet, Bastion provided a screenshot of four phones, one of which showed no image of the phone. And none of them provided enough information about the sellers, their selling history, whether they were credible/reputable or not. And there was no information about when the screenshot was taken.

The policy allows the following, in circumstances where a phone is stolen: *'we will provide a replacement item of equivalent age and value'* also *'this policy does not provide a 'replacement as new' gadget. If your gadget cannot be replaced with an identical item of the same age and condition, we will replace it with one of comparable specification or the equivalent value, considering the age and condition of the original item'*. From this, I think that the policy allowed Bastion to replace the phone with a device that was the same age,

condition and value. And wasn't a new phone. From the screenshot that Bastion provided, as I have previously mentioned, there was limited information regarding the phone's age (most appeared to be over a year old), condition or equivalent value. Even for allowing for depreciation of value of the phone, I don't think on the limited information that Bastion provided to support its position, was a fair and reasonable reflection of the value of Miss S' phone at the time of loss.

I understand that Bastion has relied upon the policy that says that it is permitted to obtain the lowest value phone. But the term confirms that the phone will be of an '*equivalent age, model and wear & tear*'. From the screenshot Bastion relied upon, I'm not satisfied that it reflected a phone of an equivalent age, model or wear and tear.

Taking all of these points into consideration, I don't think that Bastion were fair or reasonable in its valuation of Miss S' phone. As the policy permits that the replacement phone (or its cash equivalent) need to be of the equivalent model, age and wear and tear, I think it's fair and reasonable that the cash settlement of the claim, cover these conditions. Consequently, having reviewed the quotes that were for phones of a similar specification, age and model, I'm satisfied that a cash settlement of £520 for the phone, is fair.

I have also looked at the level of service that Bastion provided to Miss S. Having reviewed this, I think that the level of service was poor. Our approach is that, if an error has caused the consumer more than the levels of frustration and annoyance you might reasonably expect from day-to-day life, and the impact has been more than just minimal, then an apology won't be enough to remedy the mistake.

I'm satisfied that there were repeated errors (for instance, Bastion insisting on sending Miss S' credit provider the settlement, when this wasn't a valid method of settlement), that required a reasonable effort for Miss S to try to sort out. I'm also satisfied that the impact of Bastion's actions caused Miss S some stress and inconvenience. Especially as she had mentioned the impact on her specific family circumstances. Consequently, for the poor service, I think it is fair and reasonable that Bastion pay Miss S £75 to reflect the errors and for the distress and inconvenience caused.

Putting things right

I direct Bastion Insurance Company to put things right as I set out below.

My final decision

For the reasons I've given, I uphold Miss S' complaint and direct Bastion Insurance Company:

To pay Miss S £520 as a cash settlement for the stolen phone.

To pay Miss S £75 compensation for the trouble and upset caused.

Bastion Insurance Company must pay the above amounts within 28 days of the date on which we tell it Miss S accepts my final decision. If it pays later than this it must also pay interest from the date of my final decision to the date of payment, at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 8 December 2022.

Ayisha Savage
Ombudsman