

The complaint

Ms M and Mr W complain about Assurant General Insurance Limited's ("Assurant") handling of their claim under their mobile phone insurance.

What happened

Ms M's mobile phone was damaged so she made a claim. This was accepted by Assurant and she was sent a replacement ("mobile phone 1"). Ms M says mobile phone 1 never worked and it wasn't until over two years later, when she made enquiries, she found out it had been "*blacklisted*". Assurant found out mobile phone 1 had been "*blacklisted*" a few days before they sent it to her. Assurant then arranged a further replacement ("mobile phone 2"). Ms M says when she received mobile phone 2, she checked to see it worked by making and receiving calls. Ms M says, about a month later, when she actually started using mobile phone 2, she noticed it wouldn't connect to mobile data when no wifi was available. Ms M says she sought help from her mobile network provider, but they also weren't able to resolve the issue.

Ms M then arranged for Assurant to collect it but they returned it a few days later without fixing the issue and claiming they couldn't identify any faults. Ms M says she suggested Assurant take mobile phone 2 again and ask the engineer to call Ms M when they're carrying out checks so she could guide them on the specific issue – but Assurant declined this suggestion. Ms M says Assurant also declined her suggestion to give her a like for like replacement, so Ms M and Mr W complained.

Assurant responded and explained they'd carried out checks on mobile phone 2 but they didn't identify any faults. Assurant said they shouldn't have replaced mobile phone 1 as Ms M and Mr W were out of warranty with the phone – but because they did replace it, they've allowed mobile phone 2 to come under the warranty to verify the faults on this occasion. Assurant said they haven't been able to identify any faults with mobile phone 2 so they didn't uphold the complaint. Assurant also said, going forward, there is no warranty with mobile phone 2 as this had expired.

During our investigation, Assurant said their engineers performed a 40-point quality check on mobile phone 2 in line with the manufacturer's specifications but were unable to locate any faults. Assurant said, to date, they have no evidence of mobile phone 2 being faulty but, if Ms M and Mr W get a diagnostic report from the manufacturer confirming the faults, they may be able to review the complaint outcome further.

Our investigator looked into things for Ms M and Mr W. He thought Assurant hadn't acted fairly and recommended they get the diagnostic report from the manufacturer and provide Ms M with a replacement phone in the interim – or pay an equivalent cash settlement. He also recommended they pay compensation of £100. Ms M and Mr W agreed but Assurant disagreed so the matter has come to me for a decision.

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've decided to uphold the complaint. And, I think the investigator's recommendation here is a fair way to resolve matters.

I can see Assurant, when they found out mobile phone 1 was already blocked at the point they sent it to Ms M, agreed to send a replacement. I note they say the warranty had expired at the point they replaced it but, given the issue relating to mobile phone 1, I think the steps they've taken to replace it are fair and reasonable in the circumstances. Assurant say they also agreed to carry out an inspection of mobile phone 2 even though the warranty period had expired. I note Assurant's position here, and I've also seen the letter sent to Ms M with mobile phone 1 explaining she has a 12-month warranty. While I've taken this into account, I think it's fair and reasonable in the circumstances of this case not to apply just the narrow lens of the terms and conditions and to consider the wider principle of fairness. I agree Ms M raised an issue about mobile phone 1 after the 12-month warranty period but there's no dispute here that Assurant sent a mobile phone which wasn't a suitable replacement – given that it was blocked and therefore didn't work. So, as mentioned above, I think they've taken reasonable steps to correct this error by sending a further replacement.

The dispute here relates to mobile phone 2 and whether there is a fault. I can see Ms M says mobile phone 2 doesn't connect to mobile data when she's out of range for wifi. She has provided Assurant with screenshots which show the issue she's experiencing. Two screenshots show a search being attempted using an online search engine, one of these show a message which says "*Network error. Check your network connections and try again.*" And the other says "*No data connection*". A further screenshot shows a message which says "*You don't have a network connection.*" I think it's also important to point out that, in all three screenshots, the mobile phone doesn't show a symbol which would suggest there is a mobile data connection.

I note Assurant have described the inspection carried out by their engineer, but they haven't provided any documentary evidence of the results. They have provided a checklist of the functional checks they say were carried out by their engineer. I agree this checklist contains a thorough list of quality checks – and includes a check on wifi and mobile data. Assurant also say they believe the screenshots provided by Ms M show there's no network connection on the mobile phone – and not a fault. Assurant say, the mobile phone passed the engineer's quality control checks, but had there been a fault, it wouldn't have passed the signal/connectivity part of the checks. Assurant say mobile phones which pass the quality checks don't produce a report – only mobile phones which fail produce a report. They say, given Ms M's mobile phone, didn't produce a report they know it passed all functionality checks.

Given the dispute and the conflicting views, I've carefully considered the information I have to decide what I think is more likely than not the position here. I'm more persuaded by the screenshots provided by Ms M. I say this because the evidence she has provided shows the mobile phone doesn't have mobile data and supports her testimony about this being a fault. That's not to say I've ignored Assurant's comments and evidence, but I don't find a checklist to be more persuasive than screenshots of the mobile phone – particularly when that checklist isn't paired with a report showing the specific results of the mobile phone's quality check. I do acknowledge why Assurant aren't able to provide a report but, even without this, I haven't seen any compelling evidence which in any way challenges the screenshots or demonstrates that mobile phone 2 doesn't have a fault with its mobile data connection.

Taking this all into account, I agree with Assurant's suggestion here about obtaining a diagnostic report from the manufacturer. But, for the reasons set out above, I believe Assurant should arrange this and not Ms M and Mr W.

I've also looked at the service given to Ms M and Mr W. Assurant have admitted they sent Ms M a mobile phone which was "*blacklisted*". So, while I think they took reasonable steps in replacing it, I don't think this factors in the frustration and inconvenience in terms of the time spent trying to get mobile phone 1 to work, realising it was blocked and then arranging a further replacement with Assurant. I think it's right that Assurant should compensate Ms M and Mr W for the frustration and inconvenience caused by their poor service. And, I think compensation of £100 is fair and reasonable in the circumstances.

Putting things right

I've taken the view that Assurant have made an error in sending a mobile phone which was blocked, and I'm also persuaded it's more likely than not there is a fault with mobile phone 2. So, Assurant should arrange a diagnostic report from the manufacturer to determine the fault. And, in the interim, and if Ms M requires one, Assurant should provide Ms M with a replacement mobile phone while the diagnostic report is being arranged. If a fault is identified through the diagnostic report, Assurant should consider Ms M and Mr W's claim further.

Alternatively, Assurant can pay an equivalent cash settlement for mobile phone 2.

In addition to whichever one of the two options Assurant chooses to settle the complaint, they should also pay compensation of £100 to Ms M and Mr W for the frustration and inconvenience caused.

My final decision

My final decision is that I uphold the complaint. Assurant General Insurance Limited must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mr W to accept or reject my decision before 12 December 2022.

Paviter Dhaddy
Ombudsman