

The complaint

Mr H and Mrs K complain about Assurant General Insurance Limited (AGI) and the service AGI provided when they made a claim on their Mobile Phone Insurance policy.

Mrs K has acted as representative of Mr H's during the complaint process. So, for ease of reference, I will refer to any actions taken, and comments made, by either Mr H or Mrs K as "Mrs K" throughout the decision.

What happened

Mrs K held a mobile phone insurance policy that was underwritten by AGI. In September 2022, Mrs K made a claim on this insurance policy for a lost mobile phone. AGI accepted the claim, and they provided a replacement phone. But Mrs K was unhappy with the replacement phone, so she raised a complaint.

Mrs K felt the replacement phone was a downgrade on the phone she lost. And she didn't think it was fair for AGI to provide a lesser replacement. Mrs K was also unhappy with the alternative options she'd been provided. So, she wanted AGI to provide her with the value of her original phone as a cash settlement.

AGI responded to the complaint and upheld it. They accepted the replacement Mrs K received was a lesser specification than the phone she lost. So, they offered to pay Mrs K the full £389 value of the lost phone as a cash settlement. And they offered to pay Mrs K a further £50 to recognise the inconvenience she'd been caused. But they explained that, as Mrs K had confirmed she'd damaged the screen of the replacement phone, they would deduct the excess associated with the warranty policy of that phone from the cash settlement. Mrs K was unhappy with this response, so she referred her complaint to us.

While the complaint was with our service, AGI put two new offers to Mrs K in an attempt to resolve the complaint. Initially, they offered to waive the warranty excess associated with the damage to the replacement phone. And when Mrs K rejected this offer, AGI also offered to increase their compensation payment to £100. Mrs K rejected this again and so, our investigator looked into the complaint.

And having done so, they felt the latest offer put forward by AGI was a fair one to recognise the level of service Mrs K received. So, this is what they thought AGI should do. Following our investigators view and endorsement, Mrs K accepted AGI's offer.

But Mrs K became unhappy when she realised AGI would only pay the cash settlement for the phone value once they had received the replacement phone in return. Mrs K didn't think this was fair as it would leave her without a phone, or the cash amount to purchase a replacement. Mrs K was also unhappy with the bank AGI wished to pay the compensation and settlement into, stating she was unable to access this. But it's since been realised that Mr H can access any funds paid into the said account. Mrs K remained unhappy with AGI's expectation that the replacement phone be returned first and so, the complaint has been passed 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 think the offer made by AGI is a fair resolution to the complaint. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

It's already been accepted by AGI that the replacement phone Mrs K was provided with was of a lesser specification and that they made an error when providing this. As this is accepted, I don't intend to discuss this in further detail. Instead, I've focused on the impact this error had on Mrs K, and what I think AGI should do to put things right.

Putting things right

When thinking about what I think AGI should do to put things right, any award or direction I make is intended to place Mrs K back in the position she would've been in, had AGI acted fairly in the first instance. It's not intended to place Mrs K back in a position of betterment, as we are an independent and impartial organisation that must ensure any resolution is fair to both parties.

In this situation, had AGI acted fairly, they would've ensured the replacement sent to Mrs K was of a similar specification. In this situation, there was a dispute about whether any of the options given to Mrs K were adequately similar, as a direct replacement wasn't available. So, in this situation, I'd expect AGI to ensure Mrs K received the full value of the lost phone, so she was able to purchase a suitable replacement. I recognise as part of AGI's latest offer, they have offered to make this payment to Mrs K.

But this offer from AGI has come more than two months after Mrs K raised her initial claim. So, I think Mrs K has been left using a phone of a lesser specification for an extended period of time where, if AGI had acted reasonably, she wouldn't have needed to do so. And during this time, Mrs K has needed to take time and effort to contact AGI to dispute the initial outcome of the claim, which I don't doubt would've been inconvenient. So, I think Mrs K should be compensated for this.

AGI have paid Mrs K £100 and agreed to waive the £50 excess associated to a warranty claim for the replacement phone, which is accepted has been damaged while in Mrs K's possession. So, in total, I think AGI's offer provides Mrs K with a financial benefit of £150. And I think this offer is a fair one, which falls in line with what I would've recommended had it not already been put forward.

I think it fairly recognises the length of time Mrs K has been using a phone of a lesser specification, while also taking into account the fact Mrs K has had a phone to use during this time. I think it also fairly reflects the inconvenience Mrs K has been caused when needing to speak to AGI about her dispute and any emotional upset this has caused her while also considering the fact the replacement phone has been damaged and will likely incur a cost to AGI to fix or replace.

I recognise Mrs K has accepted this offer already. And her main dispute centres around the actions she needs to take to receive the cash settlement. Namely, return the phone to AGI before they pay the settlement.

While I appreciate the inconvenience this will likely cause Mrs K, I don't think AGI are unfair to stipulate this as a requirement of the offer. Nor am I able to direct them to make the

payment without this requirement being fulfilled. This is because providing the settlement offer to Mrs K before they receive the replacement phone back would leave Mrs K in a position where she'd have both the cash settlement, and replacement phone. And I think this is a position of betterment, which is not something I'm able to direct or recommend.

Mrs K will now need to arrange a suitable way for the replacement phone to be returned to AGI, should she wish to receive the cash settlement for her lost phone. AGI have confirmed Mrs K is able to do this free of charge through a pre-paid option they can provide, or that they will reimburse Mrs K for any postage costs. It is up to Mrs K and AGI to agree this directly between themselves.

My final decision

For the reasons outlined above, I uphold Mr H and Mrs K's complaint about Assurant General Insurance Limited and I direct them to take the following action:

- Pay Mr H and Mrs K the full cash settlement value of £389 once they've received Mrs K's current replacement phone; and
- Waive any excess applicable to the warranty claim related to the damaged replacement phone.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs K to accept or reject my decision before 31 January 2023.

Josh Haskey
Ombudsman