

## **The complaint**

Mr H complains about Assurant General Insurance Limited (Assurant) poor level of repair, following a claim under his gadget insurance policy.

## **What happened**

Mr H held a gadget insurance policy with Assurant. His phone became damaged, and he made a claim. Assurant accepted the claim and repaired the phone and returned it to Mr H.

Mr H went abroad with the phone, and he said that during wet weather, the phone stopped functioning. He contacted Assurant from abroad to make a warranty repair claim. But as he said that the phone had water damage, Assurant declined the claim and advised Mr H that he would have to make a fresh claim, which would attract another excess payment of £100.

Mr H was unhappy with this and took the phone to an authorised phone manufacturer repair centre. A report was written after the phone had been inspected by them. The conclusion of the report was that the condition of the phone had numerous sub-standard repairs. The repairs were such that they rendered the phone to be no longer watertight. Mr H said because of the poor repairs, his phone was now damaged. And he had been advised that the warranty with the phone manufacturer was now voided due to the repairs carried out by Assurant. So, he raised a complaint.

In its final response, Assurant said that as there had been water damage a new claim would need to be made by Mr H and a further excess would need to be paid. It said that under the policy terms, it was permitted to use non-standard parts for repairs, so it had complied with the policy terms and conditions. It also said that Mr H's phone had been quality checked before it left, and it passed all the tests. So, it said a warranty repair wouldn't be carried out.

Mr H was given his referral rights and referred a complaint to our service. One of our investigators considered the complaint and thought it should be upheld. She said that Mr H had provided expert evidence that showed that there were numerous issues with the repair of the phone. And that the phone had lost its watertightness. She said that Assurant ought to accept the repair or replace the phone. As well as offer Mr H £100 compensation for the trouble and upset caused.

Mr H accepted the view, Assurant did not. It provided proof that the phone had been quality checked before it left. It said that it was permitted to use non-standard parts in the repair of the phone. So, it had complied with the policy terms and conditions. It also said that the phone manufacturer doesn't guarantee water resistance, as it says on its website that water resistance effectiveness can decrease as a result of normal wear. And as Mr H's phone was purchased in 2020 (nearly two years prior to his claim) this could account for the decreased level of water resistance. 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 for much the same reasons as our investigator, and I will explain why I think this outcome is fair.

I have considered all the comments by both parties, as well as the expert evidence Mr H provided. I note that Assurant hasn't provided me with any expert evidence that refutes the expert evidence that Mr H has relied upon.

The main issue of this complaint I think relates to the watertightness of the phone. Mr H said that prior to the phone becoming damaged, the phone had no issues to watertightness. It had a watertightness rating that was sufficient enough for it to be submerged in water for up to 30 minutes, without any issue. On the day that the phone became damaged, after rain, water ingress occurred. He supported this with expert evidence, that indicated that the sub-standard repairs that were carried out (that invalidated the manufacturer's warranty) had contributed to the loss of water tightness.

Assurant said that under the policy terms and conditions, it was permitted to use non-standard parts. It said that the water tightness effectiveness can reduce under normal use and as Mr H's phone was at the time, nearly two years old, it's possible that this contributed to the loss of watertightness.

As I've mentioned, Assurant hasn't refuted any of the expert evidence that Mr H provided. That evidence as well as the accompanying photos that I've seen, concluded that there was loss of watertightness (amongst other things) due to the sub-standard repairs, that had been carried out on Mr H's phone.

Assurant said that Mr H's phone manufacturer had indicated on their website that over time there could be loss of watertightness effectiveness. Whilst I accept that this may be true, what I can't accept is that for a phone that is relatively new (less than two years old) would have lost its watertightness to such a degree that it would now allow water to enter. Further, Mr H's expert (as well as Mr H's testimony that the phone had been watertight prior to the repair) makes it clear that the repair had compromised the watertightness of the phone.

Consequently, in the absence of any expert evidence from Assurant that refutes this, I'm persuaded by Mr H's expert that the watertightness had been compromised by the repairs carried out by Assurant.

I have next looked at the quality check carried out. And although its correct that a LED screen was replaced, I do think that this shows that the phone was opened. And as it was opened, it follows that it would need to be closed again. But the expert that Mr H relied upon, said that the phone hadn't been re-sealed to the phone manufacturers specifications. Whilst I understand that Assurant is permitted to use non-standard parts to complete a repair, I do think that those parts and the repair should be to the phone manufacturers specification, which, Assurant hasn't provided proof of.

Accordingly, in the absence of any expert evidence that can refute Mr H's expert findings, I'm persuaded that the repairs carried out by Assurant contributed to the lack of the effectiveness of the watertightness of Mr H's phone. So, in line with the policy terms and conditions, I think it's fair and reasonable for Assurant to accept the claim and to either repair or replace the phone. In addition, I'm satisfied that given the distress and inconvenience caused to Mr H, Assurant ought to pay compensation of £100.

## **Putting things right**

To put matters right, I think that Assurant ought to settle the claim, as indicated below.

## **My final decision**

For the reasons given, I uphold this complaint.

Assurant General Insurance Limited ought to pay Mr H £100 compensation for the trouble and upset caused.

Assurant General Insurance Limited should repair or replace Mr H's phone, in line with the policy terms and conditions.

Assurant General Insurance Limited should pay the above compensation within 28 days of the date we tell it Mr H has accepted my final decision. If it doesn't, Assurant General Insurance Limited should pay 8% simple interest on the amount from the date of my final decision to the date of payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 23 August 2023.

Ayisha Savage  
**Ombudsman**