

## The complaint

Mr V complains about American International Group UK Limited (AIG) poor standard of service, following a claim under his gadget insurance policy.

## What happened

Mr V damaged his phone and contacted AIG to make a claim. It accepted the claim, and a walk-in repair was completed within two days of the claim being made. A few days later Mr V contacted AIG as the camera on the phone had stopped working, so a warranty repair was authorised by AIG.

Mr V attended the phone repairer store to get the phone repaired, but as they didn't have the necessary parts, his phone remained broken. Mr V explained that he needed his phone for work and when it completely stopped working, he complained to AIG

AIG said that it replaced the phone. But due to the delay in getting a working replacement phone, Mr V decided to purchase a new phone, which cost him £945. As well as having to pay £413.19, to release him from his old phone contract.

Although a replacement phone was issued by AIG, due to two failed deliveries, Mr V didn't receive the phone until around a week after it had been issued. Mr V complaint to AIG was based on the poor service he received, namely the delays, that he had to chase for updates and that the first phone was faulty. Mr V wanted AIG to reimburse him the £413.19 that he paid to release him from the old phone contract. Plus £4.99 which was the delivery charge that he had to pay for the delivery that he said did not take place. He also wanted compensation for the trouble and upset caused.

In its final response, AIG accepted that the level of service that Mr V received was not to its usual standard. It partially upheld his complaint as it accepted that there had been failed repair attempts, failed collection of his device attempts, failure to keep Mr V updated and there were delays.

It further said that it had classed Mr V's device as beyond economic repair and as a result of this, it replaced Mr V's device, as per the advanced exchange and in line with the policy terms and conditions. Because of these errors, AIG, offered Mr V compensation of £175, for the trouble and upset caused.

Mr V was still unhappy with this resolution and as he had been given his referral rights, referred a complaint to our service. One of our investigators considered the complaint and upheld it. Her view was that as there had been delivery issues with the phone, and the replacement had been locked to another network, it was reasonable for Mr V to purchase a new phone. She said that AIG had accepted that there had been errors, but the £175 offered wasn't fair as she didn't think it was reasonable for Mr V to be further inconvenienced. She recommended that AIG collect the replacement phone from Mr V and reimburse Mr V the full cost of the phone that he had bought. She also said that AIG should pay Mr V £100 compensation for the trouble and upset this caused.

Mr V accepted the view, AIG did not. It said that the full cost of the phone was £945 and Mr V's policy did not allow for replacement new phones only remanufactured phones. Further, it was Mr V's choice (in exclusion of the policy terms and conditions) to purchase a brand-new phone. Also, the replacement device would've had a 24-month warranty on it and could possibly be repaired. And the policy didn't include specific timescales for repairs to be carried out. So, it asked for a decision from an ombudsman.

Our investigator hadn't appreciated that the cost of the phone was £945. So, she issued a further view in which she recommended that AIG pay Mr V the cost to him of releasing him from his old phone contract, that is £413.19, as compensation for the trouble and upset caused. AIG still didn't agree and 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.

I considered the complaint, and I thought the complaint should be upheld. I issued a provisional decision on 28 February 2023 and asked both parties to send me anything else by 28 March 2023. In my provisional decision I said:

*I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of the complaint.*

*Having done so, I'm minded to uphold this complaint, but for different reasons from that of our investigator. I understand that this is likely to be a disappointment to Mr V, but I hope my provisional findings explain why I think this is fair.*

*I've considered the policy terms and conditions, to see what the obligations were for both parties under the policy. And to see if it's fair and reasonable for AIG to pay Mr V £413.19, which would effectively compensate him for his old phone contract.*

*Both parties accept that there were errors made by AIG during the claims process. Those errors resulted in delivery issues, delays, issue with the phone and a phone that was locked to the incorrect network. For the errors, AIG offered compensation of £175 for the trouble and upset caused.*

*Mr V chose to upgrade his phone at a cost to him of £945. He said he did this as he needed a phone for his work and did not want to be further inconvenienced, given the experience he had with the claims process. Ultimately, he would like AIG to reimburse him £413.19 (the amount that he paid to release him from his old phone contract), £4.99 delivery charge and compensation.*

*Having reviewed the policy terms and conditions, it provides that a replacement mobile phone will not be a brand-new phone and will be a like-for-like device:*

*'Replacement Devices: • If AIG (sic) replaces the Device, the replacement Device will be of the same make, model, and condition of the Device immediately prior to the incident giving rise to the claim. • Where AIG (sic) replaces the Device, the replacement will likely be a remanufactured - not brand new – Device. Remanufactured Devices may contain non-original, third party, or unbranded parts. IMPORTANT: Please note that AIG's (sic) obligations under this Policy are to provide You with a replacement Device that is of the*

*same kind, quality, and condition as Your existing Device immediately prior to the incident giving rise to the claim. AIG (sic) is under no obligation to provide You with a new replacement Device, and there is no guarantee that You will receive a new replacement Device'.*

*Mr V chose to purchase a new phone that wasn't a like-for-like phone. Whilst I can understand why he chose to do this, the obligations under the policy was that AIG had to provide a remanufactured phone. So, I don't think it's fair or reasonable that AIG pay for the cost of the replacement phone. I say this, as the phone that Mr V bought was an upgrade and the policy doesn't allow for betterment. That is, the policy allows for a refurbished phone and not a new phone.*

*Mr V would like AIG to reimburse £413.19, which was the cost that he paid to release him from his old phone contract. AIG said that it wouldn't think it was fair for it to reimburse Mr V's old phone contract, as Mr V had chosen to upgrade his phone. And it had replaced his phone as per the policy terms and conditions.*

*AIG also said that if a cash alternative was being offered, in line with the policy terms, it would offer the market value of the phone being claimed for. It said that at the time of the claim the market value of the phone ranged from £299 - £360. It said that it would think that this was a fair settlement (given the issues and that it had complied with the policy terms and conditions), that would be based on the then market value of Mr V's, refurbished phone.*

*I can't agree that it would be fair or reasonable for AIG to reimburse Mr V the cost of releasing him from his old phone contract. This is because, he chose to buy a new phone that was an upgraded device. Also, there are no provisions within the policy, that permitted AIG to offer financial assistance for Mr V to be released from a mobile phone contract. Consequently, I think it is fair and reasonable that AIG increase its offer of compensation for the trouble and upset caused to the average market value (at the time) of a refurbished phone. The average value of the same make and model was £330.*

*In addition, I think it's fair and reasonable for Mr V to return the replacement phone, as this would (according to the policy terms and conditions) belong to AIG. I won't be asking AIG to refund the £4.99 delivery charge, as the replacement phone was ultimately delivered to him.*

*I know that Mr V was deeply unimpressed with how AIG handled his claim and the complaint about it. I also know that he was hoping for more compensation for the trouble and upset caused. But I've taken all of his detailed comments into account, and I intend to ask AIG to resolve this complaint as indicated below.*

Responses to my provisional decision

Both parties were asked to provide any other evidence or comments that they wanted me to consider.

AIG had nothing further to comment.

Mr V said:

- There was no warranty repair, the warranty repair only came about after parts could not be sourced to complete the repair.
- The process had gone on too long and he has since given the replacement phone to his friend, as it was of no use to him at all.

- He questioned where the figures were obtained for the value of the phone. He said that the figures were not open to the general public and this was unfair and biased towards insurers.

I have carefully considered Mr V's comments. I'm aware that the warranty claim wasn't advised until after the parts couldn't be sourced. The initial claim was a walk-in repair.

Mr V has indicated that he is unhappy with the amount of time the process had taken and that he had since given the phone to a friend. But having reviewed the policy terms and conditions, where AIG offer a cash settlement (which is what I have recommended) the replacement phone belongs to AIG. If Mr V accepts the average market value of the phone by way of settlement which at the time was £330, then it is only fair and reasonable that the replacement phone is returned to AIG.

Finally, Mr V queried where the figures had been obtained from and questioned whether those figures were readily available to the general public. He believed these figures were not available and made the valuation of his phone unfair.

AIG sent me information to consider from a website that is easily accessible to the general public. The website gives values of a number of different phones and more importantly Mr V's old phone.

Mr V was given the opportunity to provide any evidence that he wished me to consider, this evidence could have been for the value that he believed his phone was worth at the time. I have not received any evidence of this nature from Mr V. So, I have considered the evidence that was provided to me, and I'm satisfied that the value of the phone at the time of its damage, was readily accessible to the general public.

### **Putting things right**

To put matters right, I direct the AIG as outlined below.

### **My final decision**

For the reasons given, I uphold Mr V's complaint.

American International Group UK Limited to pay Mr V a total of £330 by way of a cash settlement, on production of the replacement phone given to Mr V.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 24 April 2023.

Ayisha Savage  
**Ombudsman**