

The complaint

Mr S is unhappy Great Lakes Insurance SE declined his claim for a stolen mobile phone.

What happened

Mr S took out insurance underwritten by Great Lakes in June 2022 to cover his mobile phone for accidental damage, theft, and loss.

In July 2022 Mr S travelled to another country. He took his new mobile phone with him and used an alternate chip, so he was able to use the local network whilst abroad. Mr S went to see his sister and travelled by bus. He used the phone whilst on his journey but upon exiting the bus realised that the phone had been stolen.

Mr S said the phone was inside the pocket of the kameez he was wearing. He discovered the pocket had been cut and the phone taken. He reported the theft to the local police at the time of the incident and made a claim with Great Lakes.

Great Lakes declined the claim as they felt the claim description and Mr S' comments during the telephone interview regarding the cutting of his trousers to enable someone to steal the device wasn't plausible or a true representation of the facts. So they declined the claim for misrepresentation and for providing misleading information to gain approval of his claim. They also cancelled his policy.

Mr S referred his concerns to this service. Our investigator upheld the complaint, he felt Great Lakes should reconsider the claim and pay Mr S £100 compensation. As the complaint wasn't resolved it was passed to me to decide. I issued a provisional decision in April 2023 which said:

"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'm intending to uphold the complaint.

Great Lakes have a responsibility to handle claims promptly and fairly, and they shouldn't decline a claim unreasonably. The terms and conditions set out the agreement between Mr S and Great Lakes and outline what is and isn't covered.

The policy covers Mr S for theft, it says:

"Theft

*Means the taking of the **gadget(s)** by a third party with the intention of permanently depriving you of it, using force, threat of violence or by pickpocket. **Theft** claims must also be accompanied by a valid Police crime reference report.*

*Loss property reports and reference numbers on their own will not be accepted in support of a **Theft** claim."*

Mr S has provided a police report and has given an account of the events that led to the theft. Great Lakes doesn't think the sequence of events that led to the loss is plausible, given what he said about the clothing he was wearing and where the phone was at the time of the theft. However, I don't agree.

During the telephone interview Mr S was asked where the phone was at the time of the theft, he said it was in his Kameez. The claims handler was trying to understand more about this and asked further questions referring to the trousers. Mr S said “like a trouser” but I think he was trying to explain here that the pocket was like you would get in trousers as he had referred to the phone being in his “kameez, not the pants” when initially asked. And the traditional clothing he was wearing at the time generally has pockets in the tunic part to the garment.

The photographs I’ve seen show the pocket in the tunic and there is a visible cut to the right-hand side pocket. I asked Mr S about this as I note in the telephone interview he said the phone was in his left hand pocket. He said that he had made a mistake during the interview with the case handler. He had received some upsetting news beforehand which had caused him stress, so he didn’t realise at the time he had given the wrong pocket information. But he had provided photographs of the clothes showing the cut.

Whilst incorrect information was given in relation to the pocket the explanation provided for this is understandable in the circumstances and details of how the theft took place have been consistent. Having looked into how the pocket would sit when standing, I think it is possible the phone was taken in the manner Mr S explains. I say this because the pocket tends to hang quite loose and is visible and accessible via the split in the tunic at the side. So it’s possible an experienced thief would know where to look and how to access the pocket easily and quickly. My understanding is that as the garment is loose, it isn’t as easy to feel when something has been removed and the manner in which it was taken would’ve been quick. So I think the explanation provided is plausible.

Following the theft Mr S reported it to the police and has provided a police report so has complied with the terms and conditions of the policy.

Overall, I think the explanation provided about the theft is plausible for the reasons explained, so I don’t think Great Lakes have fairly declined the claim. However, I don’t agree they should pay Mr S £100 compensation. Whilst I don’t underestimate the stress Mr S was under at the time, given what he’s explained. And I can see he has been put to some inconvenience, there was some confusion in the initial interview which appears to have led Great Lakes to the outcome reached. And I’ve not seen anything to show their actions have caused anymore impact than that of the nuisances of having to go through a claims process.

My provisional decision

For the reasons explained, I intend to uphold this complaint and direct Great Lakes Insurance SE to reassess the claim under the remaining terms and conditions. Great Lakes Insurance SE should also remove any internal or external markers that relate to fraud if added. But I’ll consider any further submissions provided by 17 May 2023 before finalising my decision.”

Responses to my provisional decision

Mr S didn’t have any further comments for consideration. Great Lakes shared concerns as they felt the damage to the pocket looked like a rip not a clean cut that they felt would be required to not be noticed. They also commented on where the slit in the tunic stops and that they didn’t feel the theft took place as described as the thief would’ve needed “*long flexible arms*” or a two-handed operation to cut the pocket and take the phone.

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 further considered all the evidence and Great Lakes' observations and comments, I've decided to uphold the complaint. I want to assure Great Lakes that I have taken what they've said seriously. However, along with declining the claim they've suggested Mr S has committed fraud in bringing this claim. This is a very serious allegation to make and one that requires significant evidence to support it, as it can have significant and long-lasting consequences to Mr S.

Where there is conflicting evidence and a lack of information to support specifically the circumstances of the event, I need to decide – based on the balance of probabilities – what I consider most likely to have happened based on the evidence available. In circumstances such as these where an allegation of fraud has been made, there is a need for a higher burden of proof given the seriousness of the situation.

I'm not an expert on clothing but I have consulted people who have worn a kameez to understand more about it and how the pocket hangs and is visible when worn. And having done so, I'm satisfied that it is possible the theft could've occurred in the manner Mr S explained. Mr S said that the bus was very busy and given the overall circumstances of the theft, it is also possible that more than one person was involved in cutting the pocket and taking the device. I recognise Great Lakes feel the pocket looks torn as opposed to cut. But the garment is only visible through photographs, based on those photographs I can see what appears to be a slit in the pocket. And I'm satisfied it supports Mr S' testimony.

Other than concerns that Mr S' comments during the telephone interview regarding the cutting of his trousers to enable someone to steal the device wasn't plausible or a true representation of the facts, or the damage done to the garment, Great Lakes haven't detailed anything else to specifically support their allegations. Based on the available evidence and for the reasons explained, I think it is possible the device was stolen in the manner Mr S described and therefore feel Great Lakes haven't declined the claim fairly.

My final decision

My final decision is that I uphold this complaint and direct Great Lakes Insurance SE to reassess the claim under the remaining terms and conditions. Great Lakes Insurance SE should also remove any internal or external markers that relate to fraud if added.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 June 2023.

Karin Hutchinson

Ombudsman