

The complaint

Miss L has complained about the handling of a claim under her mobile phone insurance policy with American International Group UK Limited ("AIG").

Miss L is represented in this complaint but for ease, I will refer to Miss L throughout this decision.

What happened

Miss L contacted AIG, as her phone screen was cracked. AIG replaced the screen but Miss L says that unknown to her at the time, AIG also replaced her original branded battery for an inferior unbranded one. Miss L also said the speaker was crackling and phone not functioning well.

After Miss L complained, AIG said it would repair the phone. Miss L sent the phone back to AIG and it carried out the work on the phone. AIG sent the phone back to Miss L but the courier lost the phone. I understand it was delivered to the wrong address. AIG sent her a replacement phone. Miss L is not happy with the replacement, as she says it is refurbished and in poor condition. Miss L says the SIM tray doesn't sit right, light leaks out from the side of the lens, it has scratches on the side and no screen protectors. Miss L says the phone is freezes, the screen is unresponsive or oversensitive.

Miss L is very unhappy about this. She says that AIG effectively stole her phone battery and then went on to steal her whole phone, giving her an inferior replacement in return. Miss L says that if she had known AIG would take the original battery, she'd have had the screen replaced herself and would still have had her own phone and battery. In addition, Miss L is unhappy with the time taken to deal with the matter, with many delays and her having to make several phone calls, and that the replacement device was sent to the wrong address. Miss L has asked to exchange the replacement phone for a brand new phone; or that AIG pay her £650 so she can buy a new replacement for her phone.

AIG says it repaired the phone properly. AIG says that if the back glass of Miss L's model phone needs replacing then the battery needs to be replaced as well, as they are connected. In November 2022, Miss L told it that she having issues with the battery and other issues with the phone. As it was within three months of the original repair. AIG said that when the phone was lost by the courier, it sent a replacement. The policy terms provide that a replacement phone will be a refurbished model. AIG says if Miss L is saying the replacement phone is now damaged, she will need to submit a new claim under the policy for it to assess. AIG did, however, accept that there had been service failings and delays. AIG offered Miss L £240 compensation for this.

One of our Investigators looked into the matter. Initially, he did not recommend the complaint be upheld as she thought AIG's response had been reasonable. However, the Investigator reviewed the matter again and recommended that AIG pay a total of £340 compensation (to include the £240 already offered) and provide Miss L with a replacement phone in good condition, without the need to treat it as a new claim.

AIG did not accept the Investigator's assessment. AIG says the replacement phone was delivered to Miss L on 24 November 2022 and she had 72 hours to notify it of any damage to the device. Miss L didn't contact it until 8 December 2022, which was outside this notification period and after its final response to her complaint. Therefore it is entitled to ask her to make a claim for the damage to the replacement device. AIG also said that as this was not raised until after its final response letter to Miss L's complaint about the handling of her claim, it cannot be considered in the context of this claim, as it has not had the opportunity to consider this properly.

However, AIG offered to waive the excess if Miss L returned the phone for it to deal with it as a damage claim. AIG also said that if the phone is undamaged but is faulty, it would be covered under the warranty anyway. AIG does not agree it should just replace the device and give Miss L another £100.

As the Investigator was unable to resolve the matter, it has been passed to me.

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.

Miss L sent her phone in for the screen to be replaced. She was not told that the battery would also be replaced. AIG says that it had to replace the battery because *"when the screen or back glass is replaced it does disturb the battery. After the battery has been disturbed it does cause a health and safety risk to leave the original battery in the device. It can cause the battery to swell, which can then lead to the screen and/or back glass being forced out and it can also crack the glass."*

I have no reason to doubt what AIG has said about this but it should have told Miss L this before it removed her battery, so she could decide if she wanted to go ahead with the repair or not. Miss L says if she had known the battery would be replaced with an unbranded one, she would either have kept the phone as it was with the damaged screen, or had it repaired herself. It is difficult to know for sure what she is likely to have done but she didn't have the opportunity to make a choice.

The replacement battery was then causing issues with the functioning of the phone and, after some delay, AIG agreed to look at it again. The phone was then lost on its way back to Miss L.

The courier company were acting on behalf of AIG in delivering the phone back to Miss L, so it is ultimately liable for any errors it makes. Therefore AIG is responsible for the loss of the phone. It provided a replacement but this is faulty.

I do not think the 72 hour notification limit cited by AIG is relevant because from what Miss L has said, the phone is not damaged as such (other than Miss L saying there are some scratches on the side) rather she says it is faulty. I do not therefore think it reasonable to expect this issue to be treated as a claim, whether or not AIG waives the excess.

AIG was responsible for replacing the lost phone but not as an insurance claim. It was lost by a courier company acting on its behalf, rather than by Miss L. It is therefore irrelevant in my opinion what the policy says about how AIG will replace phone following a claim. The policy terms don't apply in this instance and AIG is liable to compensate Miss L for the loss of the phone.

I also do not think it makes any difference that AIG wasn't aware of the problems with the replacement phone when Miss L first raised her complaint. The complaint was about the removal of the battery of the original phone and then the fact that AIG's courier lost her original phone. I am therefore required to determine whether AIG has put those matters right and I don't think it has, as it has not provided Miss L with a reasonable replacement of the lost phone.

However, this doesn't mean AIG has to provide Miss L with brand new phone either. What it is obliged to do is to provide a like-for-like replacement. I have little evidence about the condition of Miss L's original phone, other than it had original branded parts (apart from the screen which was replaced in the initial claim). It seems to me reasonable to assume it was in good condition; I've seen no evidence to suggest otherwise.

I'm not therefore persuaded that AIG should have sent a brand new phone but it was obliged to provide a good condition replacement phone. This could be a refurbished phone, of a similar age as Miss L's original phone, but with mainly original parts, of the same make and model.

It is therefore my opinion that AIG should exchange the current phone with another in good condition.

I also agree with the Investigator that some additional compensation is warranted. AIG should not have replaced the battery in the original phone without informing Miss L that it would be doing so and making her aware it would replace it with an unbranded battery. It should also not have lost her original insured phone. Having done so it should have replaced it with a good condition similar phone, of the same make and model. There were also significant delays in AIG's response to these issues, which caused Miss L additional unnecessary trouble. I agree with the Investigator that a total of £340 compensation (to include the £240 already offered) is reasonable.

My final decision

I uphold this complaint and require American International Group UK Limited to do the following:

1. exchange the current phone with a replacement in good condition; and
2. pay a total of £340 compensation for the distress and inconvenience caused to Miss L by its handling of her claim. (If AIG has already paid any part of this compensation, it only now needs to pay the remaining amount.)

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 18 August 2023.

Harriet McCarthy
Ombudsman