

## **The complaint**

Mr P complains about Assurant General Insurance Limited's decision to decline a claim made under his mobile phone insurance policy.

## **What happened**

Mr P has mobile phone insurance underwritten by Assurant. He took out the policy in April 2023, as a benefit offered when opening a new bank account.

The day after taking out the policy, Mr P says he dropped and broke the phone. And he made a claim to Assurant.

In line with the terms of the policy, Assurant asked Mr P to provide proof of ownership and usage of the phone. The document(s) Mr P then provided appeared to show the phone was owned by Mr P's former partner. And on that basis, Assurant declined the claim.

Mr P wasn't happy with this and made a complaint to Assurant. And when they maintained their position he brought his complaint to us.

Our investigator looked into it and thought the complaint should be upheld and Assurant should reconsider the claim under the remaining terms of the policy.

Mr P had provided evidence to suggest that the phone had always been his but had been registered with the provider under his ex-partner's name simply so that they could take advantage of discounts offered when several phones were registered to the same account.

Assurant disagreed and asked for a final 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.

There's no dispute here about what the terms of the policy say. They require the policyholder to provide proof of ownership of the phone when making a claim. And they say Assurant may decline the claim if there is no proof of ownership.

There's also no dispute that at the time the claim was made, the phone was still in the name of Mr P's ex-partner.

If we apply a very strict reading of the policy terms then, Assurant would be entitled to decline the claim. The question for me is whether applying those terms so strictly *in this particular case* is fair.

I fully understand Assurant's reticence to settle this claim. And I fully understand their legitimate need to set out policy terms which guard against fraud and dishonest or exaggerated claims.

However, I hope Assurant would agree with me that it wouldn't be fair for them to decline a claim on a technicality, based on a very strict interpretation of the policy wording, *if* everyone involved knew that the claim was not fraudulent, dishonest or exaggerated in any way.

In this particular case, given all of the evidence available to us and to Assurant, I'm satisfied that everyone involved knows, beyond any reasonable level of doubt, that the phone was in fact Mr P's and was used by Mr P, not his ex-partner.

The evidence to support this is as follows.

One – when Mr P took out the policy, he listed this specific phone as his and as the phone to be covered by his policy. I realise of course that this was very soon before the claim was made and doesn't *conclusively* show that Mr P didn't already have the intention to have his former partner's phone fixed or replaced by Assurant. But I'm taking it into account along with the rest of the evidence (below).

Two – it's not clear why, if this were Mr P's former partner's phone, he wanted to insure it rather than whatever phone he was in fact using. I understand it might have already been damaged, but at the very least, Mr P might be left without any cover for his own phone if he used this policy to insure his former partner's phone instead.

Again, I realise this isn't conclusive, but it does need to be put into the context of the rest of the evidence. It's also not immediately clear why, if Mr P and his former partner had cooked up a plan to get an already damaged phone repaired just after taking out the insurance, Mr P's former partner didn't simply take out her own insurance policy.

Three – the phone provider accepted that the phone was in fact Mr P's and changed the ownership details accordingly. I understand this switch occurred after the claim had been made, but it appears to me that the supplier didn't doubt Mr P's former partner's explanation that the phone had always belonged to Mr P.

Four – a phone of this exact make and model was registered to Mr P's Google account in October 2022 – around seven months before the policy inception and the claim. It could be a different phone of exactly the same type, but on the face of it, that's the less likely explanation.

Five – a phone of exactly this make and model appears on Mr P's account with the phone manufacturer in October 2022. Again, it may be different phone, but on balance that's not the most straightforward explanation.

Six – Mr P's Facebook account shows he's logged in at times with a phone of exactly this make and model. Again, on balance, it's most likely it's the same phone.

Seven – Mr P has produced a receipt for the purchase of the phone, dated February 2022. It's possible this was passed on to him by his former partner, but Mr P says it was his receipt. There's nothing to suggest it isn't. And the alternative explanation requires a degree of "conspiracy" that might be less likely given that the third party is in fact Mr P's *former* partner.

Finally, Assurant have now accepted that the phone currently belongs to Mr P. And they've said they'll cover any further loss or damage to that phone if Mr P has it repaired this time.

I think that's a reasonable thing for Assurant to do. And I don't want to penalise them in any way for making that offer. But it does show that they accept the phone is now in fact Mr P's. It also reflects the fact that the supplier has accepted the phone belongs to Mr P – as I've

said above.

If the phone is now Mr P's, then it either has been all along or it's been given to him just before or just after the claim was made – and in an attempt to succeed with a fraudulent or dishonest claim.

If it's been his all along, then Assurant shouldn't reject the claim on the basis that Mr P can't demonstrate he owned it.

If it hasn't been Mr P's all along, it's very difficult to work out how any conspiracy between Mr P and his former partner might have benefitted the former partner. She's gone to some trouble to get the supplier to recognise the phone as Mr P's.

If Mr P then simply takes the phone into his ownership, there's no immediately obvious benefit to Mr P's former partner which could justify her taking the risk of assisting with a fraudulent or dishonest claim.

So, in summary, there is quite a lot of evidence to suggest the phone belonged to Mr P all along. None of it is entirely conclusive, when taken in isolation, but it adds up to a picture which suggests it's far more likely than not that the phone belonged to Mr P – and was used by Mr P – from February 2022.

Given the weight of that evidence, I don't think it would be reasonable or fair for Assurant to doubt Mr P's version of events. There's no other reason I can see to doubt his word. And I note that Mr P's account is consistent, coherent and, on the face of it, entirely credible.

It's also very difficult to see what ruse Mr P and his former partner might be trying to perpetrate which wouldn't have been far simpler and easier if the former partner had made a claim under her own insurance policy.

As I said, I can understand that Assurant's policy wording – and their interpretation of it – are designed to guard against fraudulent, dishonest or exaggerated claims. And I don't think they should be criticised for that.

But I think it's reasonably clear that Mr P is most likely not being fraudulent or dishonest - or exaggerating his claim – in this case. And to be fair, Assurant haven't accused him of doing any of those things.

So, I don't think it would be reasonable or fair for Assurant to decline the claim on the basis of a very strict and unbending interpretation of the policy terms when they either accept – or have sufficient evidence to reasonably persuade them to accept – that Mr P did in fact own and use the phone.

### **Putting things right**

For the reasons I've given above, I don't think Assurant can fairly decline the claim because of a lack of proof of ownership.

However, I am aware that, having made that decision previously, they haven't had the chance to consider the claim against the rest of the policy terms – and/or to decide how it should be settled, if it is accepted.

That being the case, I agree with our investigator that the fair outcome here is to require Assurant to re-consider the claim under the remaining policy terms.

**My final decision**

For the reasons set out above, I uphold Mr P's complaint.

Assurant General Insurance Limited must re-consider the claim under the remaining terms and conditions of the policy

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 August 2023.

Neil Marshall  
**Ombudsman**