

## **The complaint**

Mrs C has complained that Domestic & General Insurance Plc ('D&G') declined a claim for repair of her vacuum cleaner and cancelled her appliance insurance policy.

## **What happened**

Mrs C's husband had bought a vacuum cleaner and obtained appliance cover from D&G in August 2023. In October 2023, the battery ceased to power the vacuum and Mrs C reported the fault to D&G. D&G initially advised Mrs C to contact the manufacturer to claim on the warranty. Mrs C called D&G the following day as the manufacturer had said that as Mrs M didn't purchase the appliance from them directly, the warranty didn't cover her.

D&G then told Mrs C that it would progress the claim under the accidental damage provisions of the policy. Its engineer inspected the appliance and deemed it to be a commercial vacuum which was purchased second hand. As such, D&G wouldn't deal with the claim. Mrs C complained to D&G, however it maintained its stance and said that it wouldn't have covered the item had it known it was a commercial vacuum. It cancelled the policy and refunded the premiums paid.

Mrs C was unhappy with D&G's response, as she wanted D&G to provide either a repair or replacement vacuum cleaner. She felt that D&G shouldn't have sold the policy if it couldn't cover the item. She therefore referred her complaint to this service. The relevant investigator upheld her complaint. He said that when Mrs C took out the policy, D&G asked for the make, purchase price and date of purchase. Mrs C confirmed the make, that the price was £1,175 and that it had been purchased around four months earlier.

The investigator noted that during the call, D&G didn't ask for any model details, and the price would have indicated that this wasn't a standard vacuum cleaner. It was the investigator's view that D&G had the opportunity to obtain information about the item before confirming cover. He didn't consider it reasonable to accept cover without asking for appliance details, and then when a claim was made to say the appliance wouldn't have been covered. The investigator therefore recommended that D&G process the claim as appropriate and also pay compensation of £100 to Mrs C for the inconvenience caused.

D&G didn't agree with the outcome of the complaint and the matter has therefore been referred to me to make a final decision in my role as 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.

The key issues for me to determine here are whether D&G applied the terms and conditions of the terms of the policy fairly and reasonably in declining Mrs C's claim for repair of her vacuum cleaner and in cancelling her appliance insurance policy. I don't consider that it did act fairly and reasonably in all respects, and I'll explain why. In reaching this decision, I've also considered the submissions of the parties as summarised below.

Firstly, turning to what Mrs C has said about the matter, she claimed that D&G had known which model it was insuring, so if they didn't consider it appropriate to insure the vacuum, it shouldn't have done so. Mrs C said she'd contacted D&G when she first noticed an issue with the battery of the appliance, and she knew it was expensive to replace. She acknowledged that the vacuum was designed for commercial use, however she'd only used it for domestic purposes. She was unhappy that D&G had suggested that she'd said it was used for business and explained that her husband had used it to clean the family vehicles, not for his job. Mrs C said that her husband had bought the vacuum cleaner from a company which disposed of surplus stock.

I now turn to D&G's response to Mrs C's complaint. It explained that the policy offered protection for accidental damage and cover for electrical and mechanical breakdown after the manufacturer's warranty ceased. It said that Mrs C hadn't explained that it was second-hand when she obtained cover. Following the claim, it said it had asked where Mrs C purchased it and she'd explained that her husband had bought it a while ago, but that '*he doesn't remember as they have had it ages*'. The customer then said that the manufacturer had advised that it was a 2022 model.

D&G said that the age of the appliance didn't match that of the cover provided when the policy was set up. It said that '*To assist the customer and to progress the repair, we offered [to] put through the repair on our network, and a claim was raised for.... to assess the vacuum.*' D&G then said that in mid-October 2023, it received a report from its agent stating that the vacuum was for commercial use, and not a domestic appliance. D&G said it would therefore no longer be able to offer cover for it, and processed the cancellation, and premiums were refunded.

D&G made it clear that if it been aware that the vacuum was a commercial appliance, and that it had been purchased second hand, then it wouldn't have offered cover. It said that neither Mrs C nor D&G would have had any idea of the appliance's service history. It said that it was very likely that it had originally been used commercially. It also queried whether the vacuum had been working when cover was taken out, due to Mrs C's comment about having tried to get the manufacturer to assist for three months up to August 2023. It also said that Mrs C had incorrectly advised its age and condition when buying the policy. It considered that the refund was, '*putting the customer back in the position they were in before it was taken out.*'

I now turn to the reasoning for my decision. The starting point for decisions of this nature will be the terms and conditions of the relevant policy, as these form the basis of the contractual arrangement between the parties. In this case the relevant provisions state as follows under the heading '*Important conditions All information you give must be true, factual and not misleading...Your product must be used in a private home...*' Then, under the heading '*exclusions*', it states, '*commercial or business use... (unless we agree to the use in writing beforehand.*' The policy booklet also states, '*Your appliance must be...in good working order when you take out the policy...and used for personal and non-business purposes only*'.

As to the setting up of the policy, I've listened to the relevant phone call, and have noted that D&G's representative asked a minimal number of questions before setting up the policy for the vacuum cleaner. He asked about the make, the price and when purchased. He made the assumption that the appliance was new, however didn't check the point with Mrs C although she'd stressed the word when 'we' got it, which I consider implied that it was second hand. Despite the high cost of the appliance, no questions were asked about the type and model of vacuum to establish whether it was a professional or commercial appliance. I consider that the price would have alerted D&G of the need to obtain further details from Mrs C before offering cover. It would be fair and reasonable to expect an insurer to ask more probing

questions if it was likely to decline cover for appliances which were manufactured as commercial items or weren't brand new.

I note that the policy terms relate to the use of the appliance rather than its original purpose. I've listened to the relevant phone call in relation to Mrs C's claim and I note that she initially stated that her husband; *'bought that and kept it because he is a gardener, he keeps it like for his job and his motor and stuff. That's why we kept it'*. She later stated that it was used to clean her husband's vehicles. In the circumstances, this is a finely balanced decision and Mrs C provided contradictory information as to whether the vacuum was to be used for commercial or business use, a use which is clearly excluded from the policy. However, on the balance of probabilities I'm persuaded that, as further explained by Mrs C, she was referring to cleaning of vehicles. Whilst one or more of the vehicles was likely to have been used for Mrs C's husband's work, I agree with the investigator that this couldn't in itself reasonably be considered to amount to commercial use.

As to whether the vacuum was in good working order when purchased, I've seen no evidence to suggest otherwise. I note from the relevant phone call that Mrs C had made reference to having tried to get the manufacturer to assist for a significant period of time, however having listened to the relevant call, I consider that this related to a separate appliance which also needed fixing. She'd informed D&G at the beginning of October 2023 that there'd been no problems with the vacuum until *'the other day'* but had also stated that it had been fine up until about 3 to 4 weeks previously and had *'trouble booking it in.'* Whilst Mrs C was therefore not entirely consistent in her evidence, I'm satisfied that the vacuum had only shown signs of failure fairly recently.

I also note that it was D&G itself that advised the claim would be dealt with as accidental damage, on the basis the manufacturer wouldn't cover the item under their warranty. It was D&G that had also made an assumption that the vacuum was new and didn't ask Mrs C to confirm. If it would only insure brand-new items, then it hadn't made this clear. In the circumstances, I'm satisfied on the balance of probabilities that the vacuum was eligible for the cover provided by D&G. Finally, I note that D&G's representative had assured Mrs C that D&G would get the vacuum sorted, despite her having clarified its age and nature.

In all the circumstances, I'm satisfied that it was unreasonable for D&G to decline Mrs C's claim and cancel the policy. I therefore conclude that the policy should be reinstated and that D&G should deal with Mrs C's claim as appropriate under the remainder of the terms of the policy. I also consider that Mrs C has experienced inconvenience due to the way in which the claim has been handled by D&G. I agree with the investigator in this instance that compensation of £100 is within the range we would consider to be fair and reasonable to reflect the inconvenience caused.

### **My final decision**

For the reasons given above, I uphold Ms C's complaint and I require Domestic & General Insurance Plc to do the following in response to her complaint:

- To reinstate the policy and to deal with Mrs C's claim under the relevant terms and conditions of the policy.
- to pay compensation of £100 for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 19 February 2024.

Claire Jones

**Ombudsman**