

## **The complaint**

Miss S complains that Assurant General Insurance Limited has unfairly declined a claim under her mobile phone insurance policy.

## **What happened**

The detailed background to this complaint is well known to both parties, so I'll only summarise the key events here.

In late December 2023, Miss S purchased an iPhone and took out an insurance policy to cover it. She says it was a gift for her partner, so it remained sealed in its box until mid-January 2024.

On 18 January, Miss S made a claim for the loss of the phone.

When she was contacted by Assurant on 23 January, Miss S explained her partner had opened and set up the phone on 17 January. They'd taken it with them to a coffee shop that same day and after leaving, they realised it was missing.

Assurant declined the claim. It said it could see the phone had been set up on 16 January, so Miss S had provided false or inaccurate information.

Miss S says she'd made a mistake with the date, but Assurant maintained its decision. So she raised a complaint which she brought to our service.

Our Investigator didn't think Assurant had acted fairly. She said whilst the policy allows a claim to be rejected where fraud is identified, Assurant hadn't satisfactorily shown Miss S had acted fraudulently. Rather, she'd just got the date wrong. She said Assurant should reinstate the policy, reassess the claim in line with the remaining policy terms, and pay £100 compensation.

Miss S accepted this outcome, but Assurant didn't. It said it hadn't alleged Miss S had acted fraudulently, just that she hadn't acted honestly and given accurate information. It also said she wasn't eligible to make a claim under the policy as there was no SIM card in the phone at the time of the loss.

The complaint has been passed to me to decide.

## **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 policy term which Assurant sought to rely on to decline Miss S' claim in its final response letter says:

*“If false or inaccurate information is provided and fraud is identified then we may...reject the claim.”*

It's not in dispute that Miss S gave the incorrect date when speaking to Assurant about the circumstances of the claim. But I'm not satisfied that this alone is enough to say Miss S has acted fraudulently.

Assurant tells us it hasn't accused Miss S of fraud. But the policy term above is a fraud exclusion, and it's clear that to reject the claim on this basis, the information provided needs to be false or inaccurate and fraud is identified (my emphasis). As it hasn't shown that fraud has been identified, it can't rely on this policy exclusion to decline Miss S' claim.

Assurant has now highlighted the following policy term:

*“It is important that when applying for insurance, or submitting a claim, you or anyone acting on your behalf must take reasonable care to answer all questions honestly and to the best of your knowledge. Failure to do so may affect the validity of your policy or the fulfilment of your claim.”*

I'm not persuaded that this changes our stance on Miss S' complaint. I say this because the above policy term is under the heading of “fraud” and it's the wording immediately prior to the policy term Assurant relies on in its final response letter.

The fraud section of the policy should be read as a whole, not as individual statements.

The intention of the fraud section is to allow Assurant to take appropriate action when fraud is identified. It clearly says that a customer must take reasonable care to answer all questions honestly and to the best of their knowledge and if false or inaccurate information is provided and fraud is identified then Assurant can reject a claim.

Ultimately, if Assurant isn't alleging that Miss S has acted fraudulently – and it hasn't shown she has – then I'm not persuaded it can rely on the policy terms under the fraud section of the policy to decline the claim.

Assurant has also told us that because the phone didn't have a SIM card in it at the time of the loss, Miss S isn't eligible to make a claim under the policy. It quoted the policy terms but omitted some of the wording. I've set out the full policy term below:

*“In order to be eligible for this insurance you must either:*

- a) have a [provider] Airtime Plan and/or a [provider] Device Plan (a “[provider] EVO Plan”); or*
- b) be connected to the [provider] network and have a [provider] Pay Monthly Price Plan (a “[provider] Plan”); or*
- c) be connected to the [provider] network through a SIM only airtime plan (a “[provider] SIMO Plan”)*

Miss S has a Device Plan, so she's eligible under option A – the option omitted from Assurant's email to us.

Based on the information provided, I'm not persuaded Assurant has acted in line with the policy terms or fairly when declining Miss S' claim. So I'm directing it to reconsider the claim under the remaining policy terms and conditions. And pay compensation for the distress and inconvenience Miss S has suffered as a result of Assurant's actions.

## **My final decision**

For the reasons I've explained, I uphold this complaint and direct Assurant General Insurance Limited to:

- reinstate Miss S' policy (if it's been cancelled),
- reconsider the claim under the remaining policy terms and conditions,
- pay £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 15 July 2024.

Sheryl Sibley  
**Ombudsman**