

## **The complaint**

Miss M complains about Aviva Insurance Limited's ("Aviva") decision to decline her claim under her mobile phone insurance policy.

## **What happened**

Miss M says, while out shopping, she lost her mobile phone, so she made a claim under her policy. Aviva investigated the claim and declined it. Aviva said they had reasonable grounds to believe the claim was dishonest so they wouldn't be settling the claim and had also cancelled the policy. Miss M complained about Aviva's decision and said she'd responded to all their queries so she couldn't understand why they'd declined her claim.

Aviva responded and explained, when reviewing Miss M's claim, they'd taken into account Miss M's address location, purchase history and location, and the SIM card usage of her mobile phone – and they'd identified concerns about the authenticity of the claim. They said they'd found that Miss M's SIM card was now being used with a SIM card from an overseas network provider. They said, to see a mobile phone lost in the UK now being used with a SIM card registered to an overseas network provider is unusual and concerning activity, and their investigation had concluded that the information obtained linked to fraudulent activity within Miss M's area.

Aviva said, they'd also found that Miss M had bought her phone on 4 April 2023 and then collected this on 12 April 2023. They said they'd reviewed Miss M's phone usage and found it had only been used twice prior to it being lost on 26 April. Aviva said, from the evidence obtained, this suggests the mobile phone was bought with the intent of going on to be used with an overseas SIM card and non-genuine insurance claim being submitted. Aviva said the policy terms and conditions say, where they have reasonable grounds to believe that a claim is in any way dishonest or exaggerated, they can cancel the policy immediately and not pay any benefit or return any premium.

Our investigator looked into things for Miss M. He thought Aviva's decision to decline the claim and cancel the policy was unreasonable and recommended they reconsider the claim, remove any record of a fraudulent claim from Miss M's records and pay £100 compensation. Aviva disagreed so the matter has come to me for a decision.

## **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 done so, I've decided to uphold the complaint. And, I think the investigator's recommendation is a fair way to resolve matters.

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. The main dispute here relates to Aviva's decision to decline the claim – and central to that dispute is whether Miss M has made a dishonest claim. So I've considered all

the information to determine whether Aviva's decision, to decline the claim based on their reasoning that they have reasonable grounds to believe Miss M's claim is dishonest, is fair.

My starting point is Miss M's mobile phone insurance policy booklet. This sets out the terms and conditions and under a section headed 'Fraud' it says, "*If we have reasonable grounds to believe that your claim is in any way dishonest...we may cancel your policy immediately and not pay any benefit...*" It goes further and sets out the grounds on which Aviva can cancel the policy and says valid reasons include, "*Reasonable suspicion of fraud...We may refuse any claim and cancel your policy immediately.*"

I can see Aviva say that, in line with the policy terms and conditions, they only need to suspect a claim is dishonest in order to not pay any claim under the policy. They say the policy doesn't say that it must be confirmed that a customer has been involved in fraudulent activity, and Aviva only need to have reasonable grounds to believe the claim is dishonest. I don't believe it's enough for an insurer to say they have a 'feeling' a claim isn't genuine. Given the serious nature of this allegation and the consequences, insurers need to provide evidence to show it's more likely than not a consumer has made a fraudulent claim.

In support of their reasons for believing Miss M has made a dishonest claim, Aviva have provided detailed information following some research and analysis they've carried out relating to claims which share similar circumstances to Miss M's claim. While I've carefully considered the patterns and statistics demonstrated by Aviva's findings here, I can't say I find this information persuasive. I say this because, while I accept this information focuses on claim circumstances similar to Miss M's claim, the analysis here is broad and not in any way specific to the individual facts relevant to Miss M's claim. While Aviva might well have concerns about a rising number of mobile phone claims, and I can see they've said to Miss M their investigation has concluded that information they've obtained, "*...links to fraudulent activity within your area.*", this doesn't provide sufficient evidence or prove that, on balance, Miss M's claim is dishonest.

I can see Aviva have raised concerns about Miss M's mobile phone subsequently being used with a SIM card from an overseas network provider. Miss M has remained consistent in her testimony around the circumstances which led to her losing her mobile phone. In her statement to Aviva, Miss M confirmed, after she discovered her mobile phone was missing, she returned to the shopping centre where she believed her mobile phone was lost as well as returning to the last store she'd visited to check if her mobile phone had been handed in. She said staff at the store informed her it hadn't been handed in. That being the case, I can't rule out the possibility the mobile phone was found and taken. And if it was and is now being used with a SIM card registered to an overseas network provider, this doesn't demonstrate Miss M's claim to be dishonest. Again, I can see Aviva refer to their broad analysis, but this doesn't prove, in the specific circumstance of this case, that Miss M has made a dishonest claim.

Aviva also refer to Miss M's phone purchase and usage. The information shows Miss M bought her phone and took out the policy on 4 April 2023. Miss M then collected her phone on 12 April and only made two calls which were both on 26 April, one at 6.46pm and another at 7.27pm. Miss M then discovered her phone was missing during her journey home. Aviva say they have concerns about the low usage of Miss M's mobile phone and say the evidence suggests, "*...the mobile phone was purchased with the intent of going on to be used with an [overseas] SIM card and a non-genuine insurance claim being submitted.*" I do acknowledge Aviva's concerns and I can see they asked for information showing the first and last time Miss M used her mobile phone. I think it's a reasonable line of enquiry for Aviva to make, and I can see Miss M provided the information requested. But I can't see how the low usage demonstrates Miss M's claim as being dishonest.

When challenging Aviva's decision, Miss M said she had a second mobile phone which was on a 'pay as you go' SIM card. She said she kept both mobile phones and it was her intention to port her previous phone number. Miss M also said she was working 12-hour shifts, six days a week and wasn't allowed to use her mobile phone during working hours. Miss M also explained in her statement to Aviva that she'd used her mobile phone to contact her friend on the day she lost her phone.

So, taking this into account, I'm persuaded Miss M has provided a reasonable explanation in response to Aviva's concern about the low usage of her phone. Aviva have provided evidence to show Miss M did port across her previous number. Although the porting wasn't arranged by Miss M until July, I think this supports Miss M's account that she didn't use her new mobile phone as much because she wanted to port over her previous number. Miss M also confirmed she was working 12-hour shifts and didn't therefore have time to make calls – again this supports the case for the low usage of her mobile phone. And, the phone records show Miss M did make a phone call on the evening of 26 April, which is consistent with her statement to Aviva. Taking this all into account, I think Miss M has provided a reasonable explanation to justify the low usage of her mobile phone, and the evidence I've referred to here supports her explanation. So, I'm not persuaded Aviva have demonstrated, on the balance of probabilities, that the low usage proves Miss M has made a dishonest claim.

Taking into account all the information I've seen, I'm not persuaded Aviva have provided sufficient evidence to demonstrate that, on the balance of probabilities, it's more likely than not, Miss M has made a dishonest claim. That being the case, I don't think the action Aviva have taken is reasonable here. So, Aviva should take steps to correct the position in relation to the cancellation and also reconsider Miss M's claim.

The information shows Miss M has been caused upset and frustration as a result of her claim being declined based on it being a dishonest claim and her policy being cancelled. Given the claim circumstances, and the reason for the decline, it's clear this was upsetting for Miss M. So I think it's fair and reasonable in the circumstances for Aviva to pay Miss M £100 compensation for the upset and frustration caused.

### **Putting things right**

I've taken the view that Aviva have acted unfairly in declining Miss M's claim and cancelling her policy on the basis she'd made a dishonest claim. So, Aviva should reconsider Miss M's mobile phone claim under the remaining terms and conditions of the policy. And, because it was unfair for Aviva to cancel the policy and to treat this as a fraudulent claim, they should amend any of their records, as well as any central databases, such as Claims Underwriting Exchange ("CUE"), so that the cancellation is removed. Aviva should also remove any records of a fraudulent claim from all internal and external records and remove any fraud markers they may have recorded. Aviva should also pay Miss M £100 compensation for the upset and frustration caused.

### **My final decision**

My final decision is that I uphold the complaint. Aviva Insurance Limited must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 July 2024.

Paviter Dhaddy

**Ombudsman**