

The complaint

Mr S complains about the replacement phone he's been provided by Domestic & General Insurance Plc (D&G) following a claim under his phone and television hardware insurance policy.

What happened

Mr S made a claim for damage to a phone insured under his phone and television hardware insurance policy, underwritten by D&G. The claim was accepted, and a replacement phone was provided in settlement of the claim.

Mr S complained to D&G that the replacement phone was refurbished, as he said he was led to believe it would be new. And he was unhappy with the difference in colour, and battery capacity, of the replacement device.

D&G accepted their agent had given unclear information and that the replacement device would be refurbished, but they said they'd settled the claim in accordance with the terms so there was no detriment. They also said the policy is clear that replacements may be a different colour, and they said the battery life was acceptable and in line with the terms.

Mr S was unhappy with D&G's position, so he approached the Financial Ombudsman Service.

One of our investigators looked into things but he didn't uphold the complaint. He said D&G hadn't acted outside the policy terms by providing a different colour refurbished device. He also said the terms said a similar make and technical specification would be provided, D&G had done that, and the terms didn't say a similar battery life would be provided. So, he thought D&G had fairly settled Mr S' claim.

Mr S didn't agree and asked for a final decision from an ombudsman.

I reached a slightly different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

I’m issuing a provisional decision. I’ve reached a partly different outcome to our investigator, so I’m issuing a provisional decision to give both parties an opportunity to comment on my initial findings before I reach my final decision.

D&G doesn’t dispute that the information given by their agent was unclear that a replacement device may be a refurbished handset. Whilst the agent was unclear, this is how the policy terms say a claim can be settled. So, I don’t think, in principle, that D&G has acted unfairly or outside the policy terms by providing a refurbished device, although they should have been clearer about this during the call with Mr S.

Mr S is also unhappy the colour of the replacement device is different to the original handset. The policy terms explain:

“...we cannot guarantee that a replacement will be the same make, model or colour as your original Covered Device.”

So, I don’t think D&G has acted unfairly or outside the policy terms by providing a refurbished device, which is a different colour.

However, Mr S has also said the replacement device has an inferior battery capacity to the original device. He says the original device had a capacity of 95% and only needed charging once per day. But he says the replacement device only has a battery capacity of 80%, which requires charging much more frequently, and as a result a battery charging pack has to be carried so the phone can be charged multiple times throughout the day.

Whilst I don’t think it’s unfair in principle, or outside of the terms of the policy, for D&G to provide a refurbished phone, the refurbished phone needs to be of satisfactory quality. And I don’t think it is here.

D&G said in their final response to Mr S’ complaint:

“The battery life the policy deems acceptable on refurbished replacements provided is 80% and above.”

But the policy terms don’t outline this as D&G says. Our investigator also asked D&G what they would deem an acceptable battery life for a refurbished phone, and they responded:

“Battery life should be the same on a replacement phone and there should be no difference. The batteries are not second hand and are official new batteries from (brand) or the manufacture.”

As the replacement device has a battery capacity of 80%, I don’t think this reflects what D&G has said above about their expectation of an acceptable battery being the same as the original phone, or new. Given the much lower battery capacity than the original phone, and this appears to be in contrast to what D&G says should be the capacity of the battery, I don’t think they’ve reasonably settled Mr S’ claim.

Therefore, unless anything changes as a result of the responses to my provisional decision, I'll be directing D&G to exchange the replacement phone to one which has a reasonably comparable battery capacity, and in line with the remaining policy terms. I'm also minded to direct D&G to compensate Mr S £75 for the inconvenience caused by providing an unsuitable replacement device."

So, I was minded to uphold the complaint in part and to direct D&G to:

- Exchange the replacement phone to one which has a reasonably comparable battery capacity, and in line with the remaining policy terms
- Pay Mr S £75 compensation

The responses to my provisional decision

Mr S responded to the provisional decision and said he had nothing further to add.

D&G responded and said they accepted the provisional 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.

And I've thought carefully about the provisional decision I reached. As neither party has provided anything that would lead me to reach a different conclusion, my final decision remains the same as my provisional decision, and for the same reasons.

My final decision

It's my final decision that I uphold this complaint in part and direct Domestic & General Insurance Plc to:

- Exchange the replacement phone to one which has a reasonably comparable battery capacity, and in line with the remaining policy terms
- Pay Mr S £75 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 June 2024.

Callum Milne
Ombudsman