

The complaint

Mr J complains that Assurant General Insurance Limited unfairly refused to repair his phone under warranty, instead advising that he must make a claim under his mobile phone insurance policy and pay the excess.

Where I refer to Assurant, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

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

Mr J benefits from mobile phone insurance through his bank account. In January 2024, he made a claim for accidental damage to the screen of his phone.

Assurant accepted the claim and repaired the phone. It was returned to Mr J on 22 January 2024 with a 180-day warranty.

Three weeks later, Mr J says the screen of his phone started flickering and gradually went blank. It was unusable. He informed Assurant on 13 February 2024, and his phone was returned for repairs under the warranty.

Assurant says that when it received the phone on 29 February 2024, the screen had lifted and come away from the handset. It said the warranty was voided due to the physical damage. So it said in order to repair the phone, Mr J would have to make a new claim under his insurance policy and pay the excess.

Mr J said there was no physical damage to the phone when he sent it to Assurant. He raised concerns over the amount of time it took Assurant's courier to deliver the phone and questioned whether it had been damaged in the process. He raised a complaint which he brought to our Service.

Our Investigator didn't uphold the complaint. She was satisfied the photos provided by Assurant showed the screen on the phone had slightly lifted, so the damage wouldn't be covered under the warranty.

Mr J advised us that Assurant has since returned the phone to him and there is no physical damage to it. He's provided photos of the phone showing that the screen isn't lifted and a quote for repair listing the fault as being a flickering/abnormal display. Mr J has questioned whether the photos provided by Assurant are actually of his phone.

Our Investigator reviewed the additional evidence and agreed that Mr J's phone wasn't physically damaged. As such, she upheld the complaint and recommended Assurant reconsider the claim under the warranty and pay compensation.

Mr J accepted this outcome, but Assurant didn't. So 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.

When making a claim under an insurance policy, the onus is on the policyholder to prove they have a valid claim. If they do, the insurer should cover the claim unless it can prove that a policy condition or exclusion applies.

Mr J has shown that his phone is experiencing a technical fault whereby the screen is flickering. This is supported by a repair quote providing details of the problem. This is something which is covered under the warranty. So, on the face of it, he's demonstrated that he has a valid claim.

If Assurant wish to decline the claim based on a policy condition or exclusion, the onus is on it to demonstrate, on balance, that it applies.

Assurant has provided an undated and redacted letter which it says is the warranty terms and conditions. This says:

"Your warranty covers any mechanical and electrical failures as a result of any manufacturing faults or defects. If this occurs please contact and we will look to resolve the problem. The warranty will not be valid if the defect is caused by any faults resulting from customer damage, misuse, neglect or tampering, or if any alterations and/or repairs are carried out by someone other than us or our approved repairers."

Assurant says Mr J damaged the phone and it has provided photos of the screen lifting in one of the corners. But I'm not satisfied it's proven, on balance, that this was customer damage caused by Mr J during the three weeks he had the phone after the initial repair. My key reasons for this are set out below:

- The original repair was for screen damage. And in a short space of time following this repair, Mr J's phone screen starts flickering and is unusable. Mr J says he didn't drop the phone during that time, and he noticed no physical damage to it. This suggests the problems arose as a result of a failed repair.
- Mr J's testimony is that there was no physical damage to the phone when he sent it to Assurant. And he's provided photos showing no physical damage to his phone since receiving it back. So I can't be satisfied there is any damage to the phone at all, never mind damage caused by Mr J.
- The repair quote only mentions that the screen is flickering/abnormal. It doesn't say that there is any physical damage to the phone. And I'm persuaded that if the screen was lifting in one of the corners, the repair quote would specifically mention this as it would need to be repaired.

For these reasons, I'm not satisfied that Assurant has shown that 1) the phone has physical damage and 2) that it was caused by Mr J. So it follows that I'm not persuaded the exclusion for "customer damage" applies here.

Our Investigator has said that Assurant should reconsider the claim under the remaining warranty terms and conditions. But, from the information provided, there aren't any other policy terms or conditions that apply here. So I'm satisfied Assurant should pay the claim, as well as compensation for the distress and inconvenience caused to Mr J.

My final decision

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

- repair or replace Mr J's phone under the warranty,
- pay £75 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 18 October 2024.

Sheryl Sibley
Ombudsman