

The complaint

Mrs C has complained that EE Limited (EE) declined a claim for the repair or replacement of her mobile phone on the ground that she didn't have insurance for it when she believed she did.

What happened

Mrs C says that for over 20 years she has had phones and other devices through EE and has always taken out its insurance. On 27 April 2023, she upgraded a phone and says she requested that the insurance she had for her previous phone be continued to cover the new one. She assumed this insurance was in place.

On 11 October 2023, she had a problem with her new phone and requested a replacement, but she was told that she didn't have insurance. She says she didn't raise a formal complaint about this and her phone was replaced the next day. Mrs C says she therefore assumed that EE had made an error in telling her she didn't have insurance and that this was now resolved. She says she wasn't told that she didn't have insurance going forward.

EE wrote to Mrs C on 10 November 2023. It referred to Mrs C's telephone call of 11 October and her complaint that her insurance policy hadn't been continued at the time she upgraded her phone. It referred to its records of the phone conversation with Mrs C at the time of the upgrade. It said that its agent asked if she'd like to continue her insurance policy, to which it says she stated that she she'd like to think about it and would call back. It says its policy is to allow up to 90 days for a call back with a decision. Its records show that Mrs C didn't call back within the necessary timeframe. It therefore said it couldn't uphold her complaint.

Mrs C has said she didn't see this letter at the time it was sent due to personal matters that she was dealing with at the time and didn't see it until March 2024.

On 20 March 2024 Mrs C fell, and her phone was smashed. She contacted EE and was again told she didn't have insurance and because she hadn't rung back within 90 days to get the insurance added she was no longer eligible for insurance as she was outside the 90-day period during which insurance could be added or amended.

Mrs C says this was not her mistake, and she had offered multiple times to resolve the issue, and that she wasn't properly advised about how to escalate the matter and the importance of not following up the lack of insurance after her claim in October 2023.

Mrs C say that if she'd been told in October 2023 that she didn't have insurance going forward, she'd have tried to add it and would've happily paid the premium with effect from April 2023 so that any future claim would be covered. She says that EE would not address this with her. She says that if she had known that she didn't have insurance with EE she'd have added her phone to other insurance policies.

Mrs C says she is out of pocket by the cost of repairing her phone and a month of line rental when she didn't have her phone. She also wants it to be insured, and an apology from EE for the stress she has been caused by EE's handling of her complaint.

As Mrs C wasn't satisfied with EE's response to her complaint, she brought it to this service. Our investigator's view was that EE had provided sufficient notification to Mrs C that insurance for her new phone wasn't in place, so she wasn't able to say that EE had acted unfairly or done something wrong.

Mrs C doesn't agree with our investigator's view so Mrs C's complaint has been referred to me for a final decision from this service.

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.

I have to consider whether EE has acted unfairly or unreasonably towards Mrs C, and my view is that it has not. I'll give my reasons.

I've seen transcripts of conversations between Mrs C and EE. On 27 April 2023 she contacted EE to upgrade her phone and another device. She said she wanted to carry her insurance over on the phone. EE's agent asked her to contact its billing team to have it added on as they (presumably the team that Mrs C was speaking to) couldn't do this themselves. Mrs C said "okay".

EE has no record of Mrs C having contacted its billing team to add insurance for her phone.

The copy of her contract summary specifically states that insurance isn't included. It states as follows:

"No insurance taken

- *I need to make you aware that EE cannot provide any advice or personal recommendation about the insurance products offered.*
- *You have not selected any EE insurance product for your device and understand that if your phone is lost, stolen or damaged, EE will not replace your device and you will be required to continue to pay for your contract."*

Mrs C says she has had phone insurance for 20 years, so I think she should be used to receiving confirmations of insurance when she acquired a new device. As an example, Mrs C received Confirmation of Insurance cover for her phone insurance policy starting on 19 March 2021 for her phone with IMEI ending in 488. This has "*Feel Reassured – Your now Insured*" on the front. The absence of a similar document following her upgrade in March 2023 should also have alerted her to question whether she was covered or not.

In my view, although Mrs C made it clear to EE from the time when she upgraded her phone that she wanted her policy to include insurance, she didn't take the step she was told she needed to take to put this into effect. So when Mrs C needed to make a claim in October 2023, she was uninsured. I don't consider that EE was at fault here.

I've seen a note of a call at 14:40 on 11 October 2023 between Mrs C and EE. In this Mrs C is told she isn't insured. She says she should be as she took this out when she upgraded her phone. She is told she can raise a complaint about this so the call can be listened to, but she will be charged back dated premiums for the last 3 months. Mrs C agrees to this and is then told she'll need to speak to complaints first but she may not need to make a claim if there is no physical damage to her phone and if it is still under warranty. EE's agent then takes Mrs C's contact details and gives her a complaint reference number.

Following a call with EE's technical team Mrs C's phone was replaced on 12 October.

Mrs C didn't take the lack of insurance further with the complaints team as she assumed by the fact that her phone had been replaced that a mistake had been made and that she did in fact have insurance. It was in fact replaced under warranty.

In its letter of 10 November 2023 following her phone conversation on 11 October, EE told Mrs C that it couldn't uphold her complaint as following her upgrade on 27 April, she hadn't called back within 90 days to confirm that she'd like to continue her previous insurance. Mrs C says she didn't recall seeing this letter until March 2024 as at the time it was sent her personal circumstances led her to overlook it.

If Mrs C had taken note of that letter upon its receipt, it should've been clear to her that she still wasn't covered by EE's insurance as her policy couldn't be reinstated after the 90-day period following her upgrade. She could then have looked for alternative cover for her phone.

EE has stated that it is its policy that insurance can only be added if this is requested within 90 days, but I've seen nothing in Mrs C's contract document that states this. The fact that it's not a contractual term but merely EE policy could suggest that insurance might be added at any time with the exercise of discretion. If Mrs C had taken note of EE's letter of 10 November 2023, a request to add insurance might've been accepted. The letter says that EE had been attempting to contact Mrs C on multiple occasions regarding this matter but had been unable to reach her.

My opinion is therefore that EE was not at fault for not insuring Mrs C from the date of the upgrade of her phone as she didn't take the necessary step to include insurance. It correctly informed her in October 2023 that she wasn't insured, and I think it's clear that she was told that her phone was replaced at that time under warranty and not under insurance. Mrs C made an incorrect assumption that because her phone had been replaced, she was insured. This is despite what her contract summary told her.

EE's letter of 10 November also made it clear that she was outside the 90 days within which she could have decided to insure her phone but Mrs C didn't contact EE in response to it. The fact that Mrs C didn't take note of this letter isn't EE's fault. She therefore continued to be uninsured. I don't consider that EE was responsible for the fact that Mrs C remained uninsured when she needed to make another claim in March 2024.

My conclusion is that EE hasn't done anything substantially wrong with regard to Mrs C and has not acted unfairly or unreasonably towards her. I don't consider it would be reasonable for me to ask EE to do anything.

I've seen that Mrs C wants to add a further complaint about EE's failure to provide her with copies of call recordings in response to a data access request that she made. Unfortunately this will need to be raised as a separate complaint as it cannot be added to her current complaint at this stage in the Financial Ombudsman process.

My final decision

For the reasons I've given above, I'm not upholding Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 18 November 2024.

Nigel Bremner
Ombudsman

