

The complaint

Miss D's complaint is about the refusal of a claim under her mobile phone insurance policy with Chubb European Group SE.

What happened

In October 2023, Miss D contacted Chubb to make a claim under her policy as her phone was cracked and faulty. Chubb said the IMEI number of the phone was not the same as the one registered when the policy was first taken out and so rejected the claim.

Miss D says she had bought a phone and the policy together in 2019. Miss D says her original phone had become faulty within a few months of buying it, so it was replaced by the manufacturer under the warranty. She says the entity that had sold her the phone and the insurance policy on behalf of Chubb had advised her to go to the manufacturer at the time and was aware the phone had been replaced. Miss D says she was not told this phone would not be covered and she has continued to pay for the policy since then.

Miss D complained to Chubb but it did not change its position on the claim, so Miss D referred the matter to us.

Miss D says she has had to purchase a replacement phone, so wants compensation for the cost of this and the trouble caused to her or the premiums she has paid since 2019 refunded. Miss D also says she was also told that if she cancelled the insurance her claim may not be looked at, so she is still paying £14pm for the insurance.

Miss D has also pointed out that her current policy terms state *"if your device was replaced under the manufacturer's warranty, we'll also ask for proof of a completed exchange with the manufacturer"* which confirms it will cover any replacement.

Chubb says it is not responsible for the complaint and has not issued a final response to Miss D.

One of our Investigators looked into the matter and recommended the complaint be upheld. He did not think it was reasonable to refuse the claim on the basis the phone had been replaced. He was satisfied it had been replaced by the manufacturer with the same make the warranty, so it did not make any difference to the cover Chubb was providing. He therefore said it should refund all the premiums paid for the policy since 2019, as it would not have provided any cover for the premiums since then, and pay £50 compensation.

Chubb again said it was not responsible for the complaint. And as the complaint was not resolved, the matter was referred to me.

I issued a provisional decision on this matter in September 2024.

I considered what Chubb had said about responsibility for the complaint. I set out why I think it is the correct respondent to the complaint. In brief this is because Chubb is named as the underwriter of the policy that was issued in October 2023, which is the one in force at the time of Miss D's claim. Chubb has not disputed that it was the underwriter at the time of the claim and I therefore remain satisfied that Chubb is the correct respondent to this complaint.

I then set out the reasons why I intended to uphold the complaint and make an award in Miss D's favour. I have set out my provisional findings below:

"The policy started in March 2019 and shortly afterwards, Miss D's phone became faulty. I have seen the emails from the seller of the phone advising Miss D to go to the manufacturer's store to have the phone reset. This did not resolve all the issues, so there were further communications between Miss D and the seller. The seller was aware that in the end, the manufacturer replaced Miss D's handset in October 2019.

The 2019 policy said cover could not be transferred and if the policyholder changed phones the cover would cease. Miss D did change phones, so a strict application of these terms would mean cover would have ceased in October 2019. However, I think it reasonable to conclude that the underwriter at that time was aware of the change of the phone, given the communications between Miss D and the seller of the policy at the time. The phone was a brand-new replacement under the manufacturer's warranty of the same make and model as Miss D's original phone, so the risk presented at the outset of the policy was unchanged.

The underwriter at the time continued to provide the cover and we would have considered it unfair if it had not done so.

The 2023 policy, underwritten by Chubb, also says that the policy is not transferable:

"You can't transfer this insurance policy to another phone or device. If you upgrade your phone or device, your cover will end immediately."

However, it also says that if the original phone has been replaced under warranty it will ask for proof of that exchange:

"WHAT WE NEED TO HANDLE YOUR CLAIM

Information about your device

*We'll ask you for the IMEI number, or serial number. You can find this on the box your device came in. You can also enter *#06# if you still have the device and the IMEI number will be displayed on the screen.*

If you can't give us the IMEI number or serial number, we'll ask you to give us the make and model, the colour and how much memory your device has.

If your device was replaced under the manufacturer's warranty, we'll also ask for proof of a completed exchange with the manufacturer. If you can't give us this, we won't be able to deal with your claim."

I think this is sufficiently clear that Chubb will provide cover for a replacement device which has been provided by the manufacturer under the warranty.

Miss B's phone was not upgraded and she does have proof it was exchanged by the manufacturer under the warranty. I am therefore satisfied that Chubb should have met Miss D's claim. I have to therefore consider what should have happened and try to put the parties back in the position they would have been in had the claim been dealt with properly.

If Chubb had properly dealt with Miss D's claim in 2023, she would likely have received a refurbished handset not a brand-new phone. I think that Chubb should therefore pay what it would have paid to settle the claim if it had dealt with it properly at the outset. I have looked at the likely cost of refurbished phones for sale of the same make and model as Miss D's insured phone and with the same memory. The prices vary but most reputable sellers range from £189 to £280, the highest I saw was £350. All were in good to pristine condition.

Having considered everything, I think the sum of £250 would be fair. Either party can provide further evidence about this if they wish in response to this provisional decision. Interest should also be added from the date of the claim to the date of reimbursement.

If Chubb had replaced the phone, I think the cover would have continued. However, Miss D has made it clear she wanted to cancel the policy given the handling of her claim but felt compelled to continue it. She did also replace the phone in November 2023, so the policy ends as of then, according to the policy terms. Miss D has not had any insurable interest since then. So I also consider it fair that the premiums paid since she replaced her phone be refunded, again with interest at our usual rate.

I agree with the Investigator that some further compensation is warranted for the trouble caused to Miss D by the wrongful refusal of her claim. Having considered everything, I think the sum of £150 to be more appropriate."

Responses to my provisional decision

Miss D asked for clarification of the date that the premium refund would be calculated from; she says it should be October 2019. Mrs D also says she had to buy a new phone in November 2023, which she would not have had to do if Chubb had accepted her claim as it should have. She also confirmed she cancelled the policy on 5 February 2024.

Chubb has also responded. It has made a number of points in response to my provisional decision. I have considered everything it has said but have summarised the main points below:

- Chubb can't be held responsible for the IMEI number not being updated in 2019, as it did not underwrite the policy then.
- The fact the IMEI number was not updated as it should have been is the reason the claim was initially rejected.
- It needed to investigate this during the consideration of Miss D's complaint about rejection of the claim and it told her that if she could provide evidence the phone had been replaced under the manufacturer warranty it would meet the claim.
- It spoke to Miss D to explain this and she told it she had already sent that evidence the day before but also that she had already ordered a new phone, so did not want a replacement phone from Chubb and asked for a premium refund instead. A one-day timeframe to verify the evidence and resolve the issue was not unreasonable.
- We also need you to clarify what Miss D is actually complaining about. If this relates to the incorrect IMEI, then that is the responsibility of the previous underwriter. If this relates to being unable to claim, then it stresses that it did offer to settle the claim but this was declined by Miss D.
- It therefore thinks it's unreasonable to cash settle the claim, refund premiums and also pay compensation. The proposed outcome would put Miss D in a position of betterment which is contrary to the nature of insurance.
- It is still willing to settle the claim under the policy terms.
- It would also have offered £200 compensation for the inconvenience caused however since she declined to proceed with the claim, it couldn't do this.
- This is not a change in decision on its part, it would simply be fulfilling the claim as offered and would have paid compensation anyway had Miss D chosen to proceed with the claim, as she incurred delay in claim settlement.
- If I determine that a cash settlement would be more appropriate to facilitate the customer, it *could* investigate this possibility, however this would be outside of the policy terms and should also not be taken as a change in decision on its part.

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.

It is clear, as set out in my provisional decision, that Miss D's complaint is about the rejection of her claim by Chubb. I remain satisfied that it is the correct respondent to this complaint.

I have listened to the call recording of the call on 16 November 2023 recently provided by Chubb. The representative told Miss D that if she could prove the original phone had been given back to the manufacturer, it could offer an exchange. She said she had already ordered a new phone, so didn't want a replacement from Chubb anymore.

The fact the replacement of Miss D's original phone under the manufacturer warranty was apparently not recorded on her insurance did impact Chubb's initial handling of the claim. However, Miss D has told us she explained what had happened to Chubb several times before raising her official complaint and therefore before the phone call of 16 November 2023. Her claim was submitted in October 2023. It seems to me therefore that Chubb did not have only one day to consider this evidence, I think Chubb had significantly longer to consider this and rightly accept the claim.

Given the time that had passed since the date of the claim, Miss D understandably replaced the phone herself and no longer wanted a replacement phone from Chubb. So even though the policy may not specifically provide for a cash settlement, I have already provisionally determined that a cash settlement is appropriate in order to put Miss D back in the position she would have been in, as far as possible, if Chubb had dealt with the claim as it should.

I set out in my provisional decision what I thought that cash settlement should be. Miss D has stressed that she has had to buy a new phone but I don't think Chubb is responsible for the cost of a new phone. As explained in my provisional decision, she would likely have received a refurbished phone from Chubb and so it is reasonable that Chubb now pay the amount that it would have cost it to provide a suitable refurbished phone. I provisionally determined that the sum of £250 would be reasonable. I have not been provided with any evidence or arguments that persuade me to change my mind on this and so remain of the opinion that a cash settlement of £250 is appropriate in settlement of the claim.

Chubb appears to think I was proposing it refund all the premiums since 2019. That is not what I was proposing and I do not think that would be reasonable, in part because Chubb did not receive all those premiums. But also, Miss D received the benefit of the insurance cover from 2019 to the date of the claim in October 2023, so the premiums are properly payable to that date. However, after that date she no longer had any insurable interest. The cover was set to stop once a phone has been replaced but Miss D has continued to pay the premiums until she cancelled it in February 2024. Miss D did not have any insurable interest since the date of the claim (October 2023) so Chubb should refund the premiums from the date of the claim, together with interest.

Chubb also says it would have paid Miss D £200 compensation for the delays in her claim but did not do so because she rejected its offer of a replacement phone. It did not however, make that offer to Miss D and did not issue a final response letter to her complaint.

I provisionally determined that the sum of £150 compensation should be paid to Miss D. However, as Chubb has said it would have offered her £200 for the inconvenience caused to her, I think that would be a reasonable payment in compensation for the trouble caused to her by the incorrect rejection of her claim and the handling of the matter.

My final decision

I uphold this complaint against Chubb European Group SE and require it to do the following:

1. pay Miss D the sum of £250 in settlement of her claim, together with interest at 8% simple per annum from the date of the claim to the date of payment;
2. refund Miss D all premiums paid since the date of her claim (October 2023), together with interest at 8% simple per annum from the date of the claim to the date of payment; and
3. pay Miss D the sum of £200 compensation for the distress and inconvenience caused by its handling of this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 22 November 2024.

Harriet McCarthy
Ombudsman