

## **The complaint**

Mr A complains that Assurant General Insurance Limited unfairly declined a claim under his mobile phone insurance policy.

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.

On 22 May 2024, Mr A was approached by a stranger whilst travelling home and they demanded his phone and wallet. He reported the incident to the police and, the following day, he called Assurant to make a claim for the theft.

Mr A told Assurant that he'd last used his phone on 21 May 2024. But when Assurant checked the usage of the device, it showed the phone hadn't been used since 18 May 2024. It declined the claim, relying on the policy exclusion for fraud.

Mr A didn't think this was fair, so he raised a complaint. He said he has other phones, so he'd got the dates mixed up. But Assurant maintained its position to decline cover. So Mr A contacted our Service.

Our Investigator upheld the complaint. She said that, whilst Mr A had given incorrect information, this didn't improve his position in respect of his claim, and it wasn't enough to show he'd acted fraudulently. She recommended that Assurant reconsider the claim.

Mr A accepted this, but Assurant didn't. It said that whilst it can't confirm fraud has been committed at this stage, it's not unreasonable to have measures in place to prevent fraud.

The complaint was passed to me to decide. And I issued the following provisional decision.

## **My provisional decision**

The relevant rules and industry guidelines say Assurant has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

Assurant seek to rely on the following policy term to decline Mr A's claim:

*"Fraud...*

*If false or inaccurate information is provided and fraud is identified then we may...reject the claim."*

It's not in dispute that Mr A gave the incorrect date when speaking to Assurant about when he last used his phone. But I'm not satisfied that this alone is enough to say he's acted fraudulently.

Assurant acknowledge in its email to us that it *"cannot confirm fraud has been committed by [Mr A] at this stage"*.

But the policy term above is a fraud exclusion, and it clearly states that to reject the claim on this basis, the information provided needs to be false or inaccurate and fraud is identified (my emphasis). As it hasn't shown that fraud has been identified, it follows that Assurant can't rely on this policy exclusion to decline Mr A's claim.

I've also taken into account that Mr A has other devices. He's shown us itemised bills for another phone which he uses regularly and had used up until 20 May 2024. So I'm not persuaded Mr A deliberately provided false or inaccurate information during his call with Assurant. Rather, it seems more likely that he got mixed up with the dates on which he'd used each phone.

But even if I'm wrong about that, case law (*Versloot Dredging v HDI Gerling Industrie Versicherung AG*) has established that a claim isn't dishonest if a lie is told with the aim of improving the policyholder's position but in fact doesn't.

In this case, Assurant hasn't shown that the inaccurate information Mr A provided could've put him in a better position. It seems to me that, had Mr A given the correct date that he last used his phone (only three days prior), his claim would've been paid.

As Assurant is seeking to rely on a condition in the policy not being met, the onus is on it to show that applies. To do so it needs to show not only that inaccurate information was provided but that fraud has been identified. For the reasons I've explained, I don't think it's done so in this case. And Assurant hasn't shown Mr A's claim didn't meet any of the other conditions of his policy or that an exclusion would apply.

This decision is made in accordance with our long-standing approach on this issue, which Assurant will be aware of through previous decisions issued by this Service. It's important to highlight that under Consumer Duty, Assurant are required to learn from our decisions and it's disappointing to see that it hasn't.

## **Responses to my provisional decision**

Neither party responded.

## **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.

As neither party had any further submissions for my consideration, I see no reason to deviate from the outcome explained in my provisional decision.

## **My final decision**

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

- reinstate Mr A's policy for the remainder of his policy term (if it has been cancelled) and remove any information it recorded about the cancellation and its allegations of

fraud.

- accept and pay Mr A's claim subject to relevant policy limits and any excess.
- pay £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 December 2024.

Sheryl Sibley  
**Ombudsman**