

## **The complaint**

Mr I complains that Assurant General Insurance Limited declined a claim on his mobile phone insurance policy.

## **What happened**

Mr I made a claim on his policy after he lost his mobile phone. He explained that he put the phone in his hoodie pocket when he was riding home from work, which took about 15 to 20 minutes, but after he got home realised he no longer had the phone.

Assurant rejected the claim because it said Mr I had failed to take care of the phone, which was a breach of the policy conditions. He complaint but Assurant didn't change its decision.

Our investigator said it wasn't fair to reject the claim as Assurant would need to show Mr I had acted in a way that amounted to recklessness and she didn't think it had done so. She asked Assurant to reconsider the claim, and pay compensation of £150.

Assurant disagreed and requested an ombudsman's decision. It said:

- Mr I put the phone in his hoodie pocket, which was only a small side pocket that had no zip or other fastening.
- He had a backpack with him in which he had his laptop, charger and water bottle. He also said he would usually put the phone in his trouser pocket but hadn't done so that day.
- He took the risk of putting his phone in a small, unfastened hoodie pocket while riding his bike, when he had other options to keep the phone more securely.

I issued a provisional decision saying I did not intend to uphold the complaint, as follows:

## **My provisional decision**

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; support a policyholder to make a claim; and not unreasonably reject a claim.

The policy provides cover for the loss of a phone, but this is subject to the policy terms and conditions. These include that a customer should take care of their device, which is described as follows:

- *Not knowingly leaving your Device somewhere it is likely to be lost, stolen or damaged. Just think would you leave your wallet or purse there?*
- *If you need to leave your Device somewhere then we expect you to lock it away out of sight if at all possible. If you cannot lock it away then you must leave it with someone you trust or concealed out of sight in a safe place'.*

It's the first part of this – not leaving the device somewhere it's likely to be lost, stolen or damaged – that's relevant here. Mr I didn't leave his phone lying around somewhere it might go missing; he put it in the pocket of the hoodie he was wearing.

Where an insurer rejects a claim because the policyholder failed to take reasonable care, it needs to show they acted in a way that amounted to recklessness. In other words, they recognised a risk but took no measures to lower the risk, or took measures they knew were inadequate. I've considered whether that's the case here.

Assurant says Mr I could have put his phone somewhere more secure, such as his backpack. I think the issue is whether the place where Mr I put his phone meant he knew (or should reasonably have known) the step he had taken was inadequate, and he had put the phone somewhere it was likely to be lost. To decide that, it's reasonable to take into account other options he had when deciding that what he did was reasonable.

I think there's a specific risk in putting the phone in the hoodie pocket. That pocket would be quite loose and when Mr I brought his knees up when cycling, that was likely to disturb the phone every time and lead to it falling out. If he'd put it in this backpack or trouser pocket, that was unlikely to happen. He said he would usually put it in his trouser pocket and it's not clear why he didn't on this occasion. If, for example, Mr I didn't have a rucksack or a pocket in his trousers, so there was nothing else he could reasonably have done with the phone except perhaps walk the bike home, it may have been more reasonable to use the hoodie pocket. But as it stands, I don't think he has demonstrated that he took reasonable care.

Assurant's decision was in line with the policy terms and in these circumstances, I think it was fair.

### **Replies to the provisional decision**

Mr I has replied to the provisional decision. He says he never put the phone in his laptop bag, which was too small, and he didn't put it in a trouser pocket that day as he didn't have a trouser pocket.

We asked Assurant for some further information about the circumstances of the claim. It has provided a recording of the call Mr I made at the time, and says:

- There was no mention in the call of a laptop bag being too small; Mr I said he put his laptop in his backpack, but didn't put his phone in the bag or in his trouser pocket.
- It doesn't have any further details of the bag and Mr I didn't provide a photo of it.

### **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 know this will be very disappointing for Mr I but, having reviewed the further information provided, I have not seen anything that persuades me to change my provisional decision. So I'm not upholding the complaint.

Mr I says he didn't have a trouser pocket, and couldn't fit his phone in the laptop bag as it was too small, so that's why he put the phone in the pocket of his hoodie. But having listened to the call he made at the time, he said:

- he kept his laptop, laptop charger and water bottle in the bag;
- he had a phone call with a friend and then put the phone in the pocket of his hoodie as it was starting to rain and then he started to cycle home;
- he usually kept the phone in his trouser pocket, but didn't put it in there on that day as had been using the phone.

At the end of the call Mr I confirmed that information was correct.

The further comments Mr I has made now are not consistent with what he said at the time. I don't have details about the size of the bag but if Mr I could fit a laptop, charger and water bottle in the bag, all of which would be larger than his phone, there seems no reason why he couldn't have put his phone in the bag. And he could have used a trouser pocket but decided not to.

As I explained in my provisional decision, putting it the pocket of his hoodie increased the risk of it falling out and I'm satisfied Mr I could have put his phone somewhere more secure. In these circumstances I think it was reasonable for Assurant to say he had not taken reasonable care of his phone.

### **My final decision**

My final decision is that I don't uphold the complaint.

Peter Whiteley  
**Ombudsman**