

The complaint

Mr G has complained that his mobile phone insurer, Assurant General Insurance Limited ('Assurant') unfairly turned down a claim he made on his policy after he lost his phone.

What happened

Mr G has mobile phone insurance through his packaged bank account. He said he lost his phone while he was cycling home from work one day and so he made a claim on his policy with Assurant.

Assurant rejected the claim as it said that Mr G didn't take reasonable care of his phone and knowingly took a risk by keeping it in his trouser pocket, which wasn't secure, whilst cycling. It said that it would have been safer to have kept it in his inside jacket pocket which has a button or in his backpack.

Mr G wasn't happy about this and complained but Assurant didn't uphold his complaint so he brought it to our organisation.

The matter was reviewed by one of our investigators who asked Mr G why the phone was not kept in his backpack. Mr G said this was because he didn't want it to be damaged by the other contents of the bag which included liquids and food. He said the phone was in his front trouser pocket.

Our investigator then reviewed the complaint and didn't think that Assurant had acted fairly. Our investigator thought it was reasonable that Mr G kept the phone in his front trouser pocket and didn't think this presented a recognisable risk that he knowingly took. She thought Assurant should reassess the claim based on the remaining terms of the policy.

Assurant didn't agree and asked for an ombudsman's decision. It said that Mr G told it he had no SIM card in this phone as he had put it in his new phone which he kept in his jacket which can be secured with a button. Assurant said this meant he recognised there were safer options than his trouser pocket and was more careful with the new phone. It added that it didn't understand why Mr G needed this phone as if it had no SIM card he couldn't use it. It added that the phone was still showing as activated which means it can be used by the person who finds it.

Our investigator didn't change her view and the matter was 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.

The policy provides cover in the event the phone is lost, stolen, damaged or breaks down. If the phone is stolen it will be replaced with one of the same make, model and memory size and if that is not possible with a phone of equivalent specification. The policy says that if the insured fails to take care of their phone, Assurant may not pay the claim.

Under the “what is not insured” section in the insurance product information document (IPID) it includes incidents where the insured knowingly puts the mobile phone at risk or does not take care of it.

When considering whether an insured took reasonable care we consider whether they recognised there was a risk in the actions they took and knowingly took that risk i.e. that they were reckless.

In this case I don’t think Mr G was being reckless by keeping his phone in his front trouser pocket. I think it is reasonable that he kept it about his person. Assurant said the phone would have been safer in a pocket which has a zip or a button or in Mr G’s backpack. This may or may not be the case but, in any event, it doesn’t mean that carrying a phone in the front trouser pocket is necessarily risky.

Furthermore, as I said above in order to determine whether the insured failed to take reasonable care we need to be, on balance, persuaded that they recognised there was a risk and ignored it. From what Mr G said both to us and to Assurant when he reported the incident, I don’t think he recognised there was a risk and ignored it. I think he thought his trouser pocket was a safe place for his phone.

Assurant said the phone is still active but I’m not sure how this supports its argument that Mr G failed to take care of it by placing it in his front pocket. In any event this isn’t the reason it gave Mr G when it originally declined the claim, and I don’t think it is fair and reasonable for me to consider it in this decision.

In the circumstances, I don’t think Mr G knowingly put his phone at risk or failed to take care of it. It follows that I think it is fair and reasonable that Assurant reconsiders the claim in line with the remaining terms and conditions.

My final decision

For the reasons above, I have decided to uphold this complaint. Assurant General Insurance Limited must reconsider Mr G’s claim in line with the remaining policy terms and conditions.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G to accept or reject my decision before 23 April 2025.

Anastasia Serdari
Ombudsman