

## **The complaint**

Miss O complains that Assurant General Insurance Limited declined her mobile phone insurance policy claim. My references to Assurant include its agents.

## **What happened**

Miss O has mobile phone insurance through a building society account, the insurer is Assurant. On 4 July 2024 Miss O claimed on the policy saying her mobile phone was lost or stolen on 1 June 2024. She told Assurant she'd probably last used the phone the day before the loss/theft. She also told Assurant her phone had a security passcode that only she knew.

Miss O's phone network provider sent evidence to show the phone was last used on 10 June 2024, nine days after the date of loss/theft. Assurant declined the claim referring to policy wording under the fraud section. It said the passcode, which only Miss O knew, must have been used to access and use the phone for it to show as used on the phone's network so she'd given misleading information about the claim.

Miss O complained to us. She said she hadn't given misleading information and Assurant hadn't properly investigated the situation. She gave details as to why there was about a month's delay between her losing the phone and making the claim. She wants Assurant to settle the claim.

Our Investigator considered that on the evidence Assurant provided it hadn't reasonably declined the claim. He recommended Assurant settle the claim in line with the remaining policy terms and if there was a cash settlement it must also pay interest. He also recommended that Assurant pay Miss O £75 compensation for her upset and inconvenience it caused.

Assurant disagrees and wants an Ombudsman's decision. It said it appreciated the phone network provider's email, that Miss O provided, stated that a connection can be made to the network without unlocking the phone. But Assurant said the email didn't say that was considered as usage for the 'date last used' information. Assurant suggested that Miss O provide an itemised bill showing there was no active usage of her phone after the date of loss/theft she gave, 1 June 2024.

We asked Miss O to provide an itemised bill. She send us communication she received from the phone network provider saying it couldn't provide the itemised bill from 1 June to 31 August 2024 that she'd asked for because as she'd reported the phone as lost/stolen it wasn't her personal data.

Before I made a decision I asked Assurant to provide specific evidence to clarify matters and what other action it had taken when declining Miss O's claim. Assurant provided some evidence which I'll refer to in my findings below. It said it had placed internal fraud markers on Miss O's file. I told Assurant that if I upheld the claim I would also require it to remove the fraud markers.

## 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 relevant regulator's rules say that insurers must handle claims promptly and fairly and they mustn't turn down claims unreasonably.

Assurant referred to the following policy wording when declining the claim:

*"Fraud...*

*If false or inaccurate information is provided and fraud is identified then we will:*

- Not honour the claim and we will cancel your policy."*

That policy wording means Assurant won't accept a claim if it considers Miss O provided false or inaccurate information and fraud is identified. I need to decide whether there's enough evidence for Assurant to reasonably consider that it's more likely than not that Miss O made a fraudulent claim.

Miss O's phone network provider's initial letter about her phone said '*Date last used: 10 June 2024*'. When Miss O asked it to clarify what 'date last used' meant it added to the letter '*Date of usage is regards the date phone was last turned on*'. When Ms O asked for further clarification it added to the letter '*Date last used means that was the last time the device was used on the (name of the phone network provider)*'. Miss O also sent an email she said was from the phone network provider saying:

*'The time and date last used means the last time the device was active on our network, No passcode is needed to activate the connection to our network so there is no proof that the customer entered a pin code as its automatically connected to the nnetwork (sic)'*.

Given the evidence Miss O provided the important information to know is would someone just turning on the phone without using the passcode cause the phone to show as being used on the phone's network. If so then on 10 June, the date shown as last used, the phone could have been turned on by anyone who had the phone. Or alternatively did the person using the phone have to put in a successful passcode and use calls, texts, data before the phone would show as being used on the network? If so then as Miss O said only she knew the passcode Assurant could reasonably understand that she used the phone on 10 June, nine days after she said the phone was lost/stolen.

Our Investigator asked Assurant to provide evidence from Miss O's phone network provider to answer the issue. Assurant said 'date last used' meant use through the SIM card and the phone would have been used with calls, texts or data, to show on the phone's network. So only Miss O would have used the phone as only she knew its passcode. Assurant sent us a call recording it had with the phone network provider which it said supported its position.

Before I made a decision I listened to the call Assurant had with the phone network provider which didn't give the information as Assurant had summarised. I asked Assurant to get clarification from the phone network provider about what it meant when it told Assurant that 'services' had to be used to show the phone's usage on its network. I also asked Assurant to provide the following evidence:

1. Would a phone user just turning on the phone - and not activating the phone's security - show as the phone being used on the phone's network?

2. Or would the phone user have to activate the phone's security and use calls, texts or data on the phone for the phone to show as being used on the phone's network?

Assurant's response was that it couldn't get that information from the phone network provider. But Assurant said it understood that: if a consumer has a passcode that appears when the phone is starting up that would need to be entered in order for the phone to be fully turned on; if the consumer did have security it's possible that someone else turning the phone on couldn't access it but there was "residual data". That means app notifications may send to the phone once it's turned on and any incoming texts, emails, calls, notifications would also show as usage from the network.

From Assurant's response I understand that Miss O's phone could be shown as being used on the phone's network just by someone turning on the phone without using the passcode because the "residual data" (app notifications, incoming texts, emails, calls, notifications) would show as usage on the network. So I think I can reasonably conclude that the person using Miss O's phone on 10 June 2024 didn't have to activate the phone's security and use calls, texts or data for the phone to show as being used on the phone's network. Which means that when the phone was shown as last used on 10 June 2024 Assurant can't reasonably conclude that Miss O had to be the phone user.

I also note that Miss O tried to obtain the relevant itemised bill for her phone, but was unable to do so through no fault of her own. So she tried to get further evidence which she thought would support her claim.

I've also considered Assurant's other concerns about the claim. There was a delay between the date Miss O said the phone was lost/stolen and her making the claim. But I think she's given a reasonable explanation for the delay. It wasn't her main phone, the battery was dead and she thought the phone was somewhere in her house. When she still couldn't find the phone she spoke to a person in the shop where she thought she may have last had the phone and the person's response led her to report the phone as stolen to the police and make the claim on the policy. I think that situation also explains why the phone wasn't barred until 4 July 2024, the date she made the claim. Assurant's also concerned that in the claim call Miss O mentioned a relevant date was her birthday and then her sister's birthday, but I don't think that's a reason for it to consider that Miss O made a fraudulent claim.

It's for Assurant to provide evidence to support its decision that Miss O made a fraudulent claim. Having considered all the evidence provided I'm not persuaded there's enough evidence for Assurant to have reasonably concluded that it's more likely than not that Miss O made a fraudulent claim. So Assurant didn't fairly decline the claim using the above policy term about fraud.

I think the reasonable outcome is for Assurant to settle Miss O's claim in line with the remaining policy terms and if it's by cash settlement then interest should be added as I've detailed below. Assurant must also remove the internal fraud markers on Miss O's file. Assurant's told me that it didn't cancel the policy and didn't place any external fraud markers. I also think it would be reasonable for Assurant to pay Miss O £75 compensation for her distress and inconvenience it's unnecessarily caused by how it's handled her claim.

### **My final decision**

I uphold this complaint and require Assurant General Insurance Limited to:

- Settle Miss O's claim in line with the remaining policy terms. If the settlement is by

cash payment Assurant must add interest\* at 8% simple a year from the date of claim to the date of settlement, and

- Remove the internal fraud markers it placed on Miss O's file, and
- Pay Miss O £75 compensation for her distress and inconvenience it's unnecessarily caused by how it's handled her claim.

\*If Assurant General Insurance Limited considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Miss O how much it's taken off. It should also give Miss O a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 26 May 2025.

Nicola Sisk  
**Ombudsman**