

## **The complaint**

Mr V has complained that Chubb European Group SE unreasonably refused to pay his claim under his mobile phone insurance after his phone was stolen.

## **What happened**

Mr V went to a playground with his son. His mobile phone was in his bag which was closed. He left his bag on a table with other parents' bags and was playing football with his son, near the table. He said he kept his eye on the bag on the table virtually all of the time. He said he was constantly checking it. His phone was not in view as it was in the closed and zipped up bag. Unfortunately, his bag was stolen with the phone in it.

He made a claim to Chubb. It decided Mr V didn't take reasonable care of his phone as he took a risk leaving his bag on the table. So, it refused to pay his claim. Mr V complained but Chubb wouldn't change its stance, So, Mr V brought his complaint to us.

The investigator thought it should be upheld. He thought Chubb should pay the claim adding 8% interest, remove any internal or external markers about the claim and pay Mr V £100 compensation. Mr V agreed but Chubb didn't, so on that basis Mr V's claim has been 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.

Having done so, I'm upholding this complaint along the same lines as the investigator. I'll now explain why.

Chubb relied on the following exclusion clause in the mobile phone insurance policy to decline to pay Mr V's claim:

*"Just because you have insurance with AppleCare Services doesn't mean you can be careless with your device. You mustn't leave it in a place where you can't see it, but others can. For example, leaving it on display in an empty vehicle, or in an unoccupied building when any doors or windows are left open or unlocked."*

However, Mr V didn't leave his phone on view. He left it out of view and zipped up in a bag, so it wasn't on display. And indeed, his bag was with other people's bags. So, I don't think this exclusion applies in this instance as Mr V didn't contravene it, his phone couldn't be seen by anyone else as it was zipped up in a bag. That means it wasn't on display.

Chubb will know the details of the Sofi -v- Prudential court case. It says a consumer is only deemed reckless if they recognised a risk and took it anyway. I think it's clear Mr V

recognised the risk that his mobile phone might get stolen. So, I consider he took steps to minimise that risk, ensuring his phone was zipped up in his bag so not on show, plus his bag was on a table with other parents' bags so it wasn't just sitting there on his own. And plus, most crucially, the bag was in Mr V's sight, and he kept checking it was still there.

Therefore, I consider he did take the requisite care having recognised the risk so I consider Chubb should pay Mr V's claim with interest and indeed remove any internal or external markers concerning the theft or the declined claim.

Chubb mentioned another case where another of our investigators didn't uphold a complaint in somewhat similar circumstances. First as the investigator explained we consider each case on its merits, but I also don't think the circumstances in that case are similar to Mr V's. The phone was lost or stolen in a shopping centre where the phone was in a bag on the child's buggy but crucially out of sight of that consumer. Plus, that consumer changed their story halfway through saying it might have fallen off the buggy instead. So, I don't consider the facts in that case are similar enough to the facts in Mr V's case. Mr V didn't change his story throughout and more crucially his bag was within his sight, and he kept checking it.

I also consider Chubb's refusal to pay Mr V's claim caused him further distress and upset. I consider the amount of compensation suggested by the investigator for Chubb to pay to Mr V, of £100 to be reasonable here and in line with our approach to compensation as more fully detailed on our website.

### **My final decision**

So, for these reasons, it's my final decision that I uphold this complaint.

I now require Chubb European Group SE to do the following:

- Pay Mr V's claim in accordance with the remaining terms and conditions of the policy.
- Adding interest of 8% simple per year from one month after Mr V made his claim to the date it pays his claim. If income tax is to be deducted from the interest, appropriate documentation should be provided to Mr V for HMRC purposes.
- Remove any internal or external markers about the theft and/or declined claim.
- Pay Mr V the sum of £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 8 May 2025.

Rona Doyle  
**Ombudsman**