

The complaint

Mr R has complained that Assurant General Insurance Limited have refused to settle his claim without him returning the broken one.

What happened

Mr R's phone broke, and he couldn't turn it on or charge it, so he made a claim for a repair under his policy.

Assurant's repairers couldn't access the phone to repair it and so they deemed it beyond economical repair. Assurant agreed to replace it under the terms of the policy but said they would need the broken phone to be returned to them to complete the claims process. The confirmed that they would wipe and destroy the phone on receipt to protect Mr R's data.

Mr R said he had photos and other information that he wanted to get off his old phone, so Mr R asked if he could keep the phone to try and extract the information, but Assurant said that without the old phone they wouldn't be able to process the claim.

Mr R complained but Assurant didn't uphold his complaint and so he brought it to us.

One of our investigators has looked into Mr R's complaint but she thought Assurant had acted fairly in requesting the broken phone.

Mr R disagreed with our investigators view, and so the case has come to me to review.

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 have to consider whether Assurant have acted fairly, and in line with the terms and conditions of the policy when dealing with the claim.

Having done so I'm not upholding this complaint, and I'll explain why.

At page 94 of the policy under "What you need to know about the claims process" it says:

"If any lost, stolen or damaged items are recovered after the claim is approved, they shall become the property of the insurer and must be returned to us immediately. Damaged mobile phones and accessories, parts and materials replaced by us shall become the property of the insurer".

So, it's a clear condition of the policy that following a claim the phone becomes the property of Assurant, and so I'm satisfied that they aren't acting unreasonably by requesting the damaged phone be returned to them.

Mr R says that in his case, the terms aren't being applied fairly as the broken phone is of no use to Assurant, so they wouldn't be losing out if he kept it, but that by surrendering it, he is losing all of his photos and data.

While I can understand why Mr R wants to keep the phone and have the opportunity to try and extract the data from it, the policy works on an indemnity basis to put Mr R back in the position he would have been in before the claim, and it does this by providing a replacement reconditioned phone. Keeping the phone would put him in a more advantageous position in which he owned two phones, which wouldn't be fair on Assurant, and wouldn't be in the spirit of the policy terms for providing a "replacement". It would allow Mr R to potentially have the phone repaired and sell the phone.

Mr R has said that as the phone is beyond economic repair meaning that it is very costly, this isn't something he would do, so there is no advantage to him, but I consider that the possession of it still leaves him in a better position than Assurant who will have provided a replacement device, and that possibility, and I have to consider what is fair to both parties.

I also note that the policy terms at page 90 are clear that they don't cover the contents of the phone such as photos, software and apps, and they confirm that it is the customer's responsibility to back up the content of the phone regularly to avoid loss of data. Assurant aren't responsible for compensating Mr R when he hasn't followed that advice and his responsibilities under the policy.

Assurant have accepted the claim but only haven't processed it because the broken phone hasn't been returned. Mr R still has the opportunity to have the photos and other data extracted from his phone; he just hasn't done so yet. There will be a cost to this which he would have to bear whether he returns the phone or not and so he isn't disadvantaged there, and if he chooses to do this, and returns the phone to Assurant, they could continue to process the claim and provide a replacement.

Mr R has raised the possibility of receiving a cash settlement, but as a replacement is available and has been offered, I consider Assurant have offered to settle in line with the terms and conditions.

I appreciate that Mr R will be disappointed by my decision, but in view of the terms of the policy, Assurant don't need to do anything further here.

My final decision

My decision is that I'm not upholding Mr R's complaint about Assurant Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 December 2025.

Joanne Ward
Ombudsman