DRN-5742618

The complaint

Mr S complains about the decision by Aviva Insurance Limited ('Aviva') to decline a claim made against his package bank account, 'Tech pack' mobile phone insurance policy.

Much of Mr S' dissatisfaction is about the actions of Aviva's appointed agents. Aviva are the underwriters of the policy Mr S has claimed against and they are responsible for the actions of their agents – such as the claims handler and technicians/engineers. As Aviva have accepted responsibility for the actions of those agents, in my decision any reference to Aviva should be interpreted as also covering the actions of their agents.

What happened

The background to this complaint is well known to Mr S and Aviva. Rather than repeat in detail what's already known to both parties, in my decision I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mr S made a claim as his phone battery was failing to hold charge as expected, in November 2024. The claim was accepted and Mr S paid the policy excess. Shortly afterwards, Aviva let Mr S know the battery wouldn't be replaced under the policy as they hadn't found a fault, and they refunded his policy excess.

Mr S made a complaint as he said Aviva had wasted his time and provided poor service when he registered his claim. He said that the phone manufacturer (Apple) had replaced the battery at a cost to him. He asked for compensation. Aviva didn't uphold the complaint and Mr S referred it to our Service for an independent review. Our Investigator didn't recommend the complaint be upheld and as the dispute remained unresolved, the complaint was then referred to me for a decision.

I recently sent both parties a copy of my provisional, intended findings. As both parties have now responded, I've considered the complaint for a final decision.

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.

It's important that I'm clear our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service.

Responses to my provisional decision

Both parties provided detailed responses to my provisional decision. I thank them for their responses, but with all due respect, I won't be replicating their level of detail. Mr B's response largely expands on points he's already made. Our Service was set up to resolve complaints with minimum of formality. If Mr B remains unhappy with this complaint outcome or alleges that Aviva have breached the Consumer Rights Act, he has the option of taking legal advice.

I won't be increasing my compensation direction. Nothing in Mr B's response persuades me that the amount I set out was unfair. I've considered the declined claim here, if Mr B is unhappy with anything else - such as the information he was given when taking the policy out or the policy terms generally, he'd first need to raise that with Aviva as a new complaint. I make this point as much of his response refers to information failings on the part of Aviva.

To clarify, I quoted that Apple's website states if a customer has Apple Care plus (which is a separate product at a cost), they'd replace a battery. This doesn't mean Apple would replace a battery for free, as standard.

Regarding the battery needing replacing, I don't agree with Mr S at all that *"If a phone works for less than its normal new daily period, that is a breakdown – it means it needs to be recharged or plugged into a wall socket – hardly helpful with a portable appliance meant to work by batteries"* and *"I say a phone not working to the normal standard when powered by the battery, is a breakdown. If it should last say 10 hours a day on a full charge, but only lasts say 4 hours and gets hot, then that is a breakdown in practice."* The phone manufacturer themselves state *"…All rechargeable batteries are consumables and have a limited lifespan – eventually their capacity and performance decline in such a way that they need to be replaced."* https://support.apple.com/en-gb/101575

Mr S has also said: *"Apple as the manufacturer know their batteries would deteriorate, hence they give free replacements. Here, it is apparent the insurers are using Apple to do free replacements, rather than offering any service at all – it is a form of scam which I never knew existed".* I'm only considering the actions of Aviva here and there's nothing to support the assertion Mr S has made.

Aviva have accepted responsibility for their agents and the service they provide. This includes anything said to Mr B during the call. Logging the claim was fair. Not making Mr B aware that there was a possibility the battery may not be replaced was unfair. This is what the £50 award is for.

My key findings

Mr S has referred extensively to the Consumer Rights Act and FCA rules. I've also kept them in mind, but DISP 3.6 sets out the approach I've taken:

"The Ombudsman will determine a complaint by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case…."

> *"…In considering what is fair and reasonable in all the circumstances of the case, the Ombudsman will take into account:*
>
> *(1) relevant:*
>
> *(a) law and regulations;*
>
> *(b) regulators' rules, guidance and standards;*
>
> *(c) codes of practice; and*
>
> *(2) (where appropriate) what he considers to have been good industry practice at the relevant time."*

https://www.handbook.fca.org.uk/handbook/DISP/3/6.html

Our Service was set up as a fast and informal alternative dispute resolution service. If Mr S wants a very specific finding on whether Aviva have breached the Consumer Rights Act, he is welcome to take legal advice. But as above, I've kept the Consumer Rights Act and any other relevant legislation, rules, guidance and good industry practice in mind when reaching an overall fair and reasonable outcome.

Mr S has said that if different organisations arrange phone battery replacement it should be at a figure that all agree on. That is far beyond the remit of our Service and not something I'll be commenting on further.

The claim decline

At the heart of this complaint is Mr S' dissatisfaction at paying for an insurance policy that he had a claim accepted on and then no repair carried out. Whilst undoubtedly frustrating for Mr S, it's normal that there may be a triage type function when a claim is registered. Basic claim validation checks were carried out, but more detailed checks are usually carried out as the claim progresses. This is normal across the insurance sector. The 'what' Aviva have done may be fair, but I'll consider the 'how' (they went about it) later in my decision.

Here, the claim was accepted, but upon review of the phone Aviva decided that the policy didn't need to respond to replace the battery. In their final response letter, Aviva say this was because the battery capacity was still above 80%. Aviva have said this approach is in line with Apple's policy on replacing batteries. I've referred to the manufacturer's website and find that Aviva acted fairly declining the claim. Below is some information from Apple (bold added for my emphasis). To be clear, these are not the terms of the insurance contract between Mr S and Aviva:

> *"Batteries of iPhone 14 models and earlier are designed to retain 80% of their original capacity at 500 complete charge cycles, depending on how they are regularly used and charged."* https://www.apple.com/uk/batteries/service-and-recycling/

And:

> *"We can replace your iPhone battery for a fee. Our warranty doesn't cover batteries that wear down from normal use.*
>
> *Your product is eligible for a battery replacement at no additional cost if you have AppleCare+ and your product's battery holds less than 80 per cent of its original capacity."* https://support.apple.com/en-gb/iphone/repair

I also remark from the engineer's notes:

> *"…tested device no issues popped up on diagnostics…explained I can't go ahead unless the testing shows me any indication of faults…"*

Given Mr S purchased this phone (presumably as new) in 2020, I've assumed he would've charged his phone multiple times per week and the battery capacity would've naturally deteriorated over time. This is to be expected. The review of his phone by Aviva didn't show a fault with the phone that was causing the battery to drain more quickly. It's also noteworthy that Mr S hasn't indicated the replacement battery didn't resolve the battery issues. It seems reasonable to assume therefore, that the battery had simply deteriorated over time.

I've carefully considered the policy terms here to determine if there is any scope for the policy to respond. But I find that the claim wouldn't succeed for 'damage' given this was a foreseeable event – as the battery was expected to deteriorate over time and it hadn't reached the level where the manufacturer deemed a replacement was needed. Likewise, the event being claimed for here wasn't a breakdown - as the phone continued to operate.

Mr S also hasn't shown any supporting evidence that something other than an expected decline in the battery capacity over time was responsible for the issues he was experiencing.

This policy is intended to respond to sudden and unexpected events. For example; a phone being stolen or being dropped and a screen cracking. A battery deteriorating in a four-year-old phone is not sudden or unexpected. Therefore, the claim decline was fair, but Aviva could've explained this better to Mr S.

The service provided

When Mr S called to first register his claim, he had a general discussion about what 'tech pack' covered including a conversation about the types of devices covered under his policy and what was covered.

Mr S explained the battery capacity was showing 85%, it was only holding charge for several hours and he'd noticed an issue a few months back (June 2024). The call handler explained the steps that needed to be taken ahead of any repair (removing find my iPhone etc). In the below section I have transcribed sections of the call. They are a fair reflection of what was discussed.

At around 28 minutes into the call, the adviser says:

> *"our promise is to provide you with a working device by either repairing or replacing it with a reconditioned device….if we're unable to* [inaudible*] by either of these options we'll contact you to discuss this further…"*

The adviser then takes some details about the phone. Mr S says:

> *"everything is working, even the battery, but it doesn't have a very long life…the official number when I did the battery health check was 85 and they told me that means you should get it replaced…a new battery should last for 10 hours…it's been happening for a couple of months…is it really beginning to reach its' life…it's been a few years…"*

The call handler then explains the engineer will visit Mr S the following Monday. Mr S asks about next steps and the adviser says:

> *"if they do repair the advice….if not… the technician will advise you if they can't repair your device ….and you'd need to give us a quick call…we would need to process the extra £50 for a replacement.'*

I find the above quote was probably the most the adviser did to set any expectations, but then right at the end of the call, Mr S asks "*is there any reason why batteries can't get replaced?"*. The call agent refers to her experience of swollen batteries or visible issues and says "*with the battery draining, basically they should just be able to replace that for you…"* Mr S says *'..swap it?"* and the adviser says "*yeah*". In my opinion, this completely undermines the previous quote.

I understand why Mr S feels Aviva have wasted his time and I agree that Mr S has suffered a loss of expectation that isn't sufficiently recognised with a refund of the excess. His expectations should've been managed much better in the call.

Aviva's main defence for the service provided in this call was that their call handlers *'…are not required to request or have knowledge of Apples specific battery health requirements when raising a claim...'*. In their file submission, Aviva have also told us *'The agent who processed the claim was correct to book a repair appointment based upon the information provided to them as they could not have known that the technician's diagnostics would fail to identify any faults with the handset.'*

I've carefully considered these statement - and to a certain extent I agree. But I find that in the very specific circumstances of this complaint/claim Aviva ought to reasonably have identified that this was a four-year-old battery that had only lost 15% of its' capacity (based on the information Mr S gave during the call) and he clearly outlined there were no other known issues affecting the battery life or phone performance. The claim validation (diagnostics) weren't outlined to Mr S, nor are they contained in the policy terms.

This contract of insurance is not intended to act as a battery replacement service for older phones. Overall, on balance, I find that Mr S was set unrealistic expectations during the call and I agree that Aviva wasted his time as well as causing avoidable loss of expectation. For example, the adviser didn't explain that diagnostics would be carried out first and Mr S reasonably ended that call assuming that a straight battery swap would take place.

Other points raised

Mr S has questioned why he was paying insurance premiums when he was unable to benefit from a battery replacement. I won't be directing Aviva to return the premiums paid because of the declined claim. Mr S has had the benefit of peace of mind should an insured event covered by the policy have arisen.

Mr S paid to have his battery replaced privately, but that is irrelevant as he could've opted to have had it replaced at 90% or 95% if he was a paying customer. Also irrelevant is what his mobile network would've done. I'm only considering the actions of Aviva here.

Summary

I find that it will have no doubt been frustrating for Mr S to be told his battery replacement wasn't going to be covered by the policy.

I find that the service provided during the notification of loss call falls below what might reasonably have been expected. Expectations were not set at all and in my opinion, this situation was entirely avoidable.

Having referred to our published guidelines on this type of award, https://www.financial-ombudsman.org.uk/consumers/expect/compensation-for-distress-or-inconvenience this award also recognises that Mr S felt aggrieved enough to need to make a complaint.

To be clear, I'm not directing Aviva to cover the cost of the private battery replacement Mr S had carried out - as this policy is not intended to respond to this type of event. Aviva have said if a fault with the battery had been identified, they'd have replaced it.

Putting things right

Aviva Insurance Limited need to pay Mr S £50 compensation.

My final decision

My final decision is that I partially uphold this complaint. Subject to Mr S responding to accept the decision before the deadline set below, I direct Aviva Insurance Limited to follow my direction as set out under the heading ‘Putting things right’.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 8 September 2025.

Daniel O'Shea
Ombudsman