

The complaint

Mr H has complained that AmTrust Specialty Limited has unreasonably refused his claim for his stolen mobile phone under his gadget policy as part of his travel policy.

Mr H is represented by his father also Mr H.

What happened

Mr H was going on holiday to a country in Europe, so he bought his travel policy and added gadget protection to it which is underwritten by AmTrust.

When on holiday, Mr H said whilst he was on the phone talking to his father or having just ended the call, he was confronted by five men and told to hand over his phone which he duly did feeling very threatened. Mr H said he reported it to the police, but they were singularly disinterested.

Without his phone he had no access to any other device until he got home. When he got home he couldn't access his iCloud account, and he started to get email notifications that the thieves were accessing his other accounts and apps also. Given he was on his phone talking at the time or had just ended his call, the phone was unlocked at the time of the theft. Once back in the UK, he reported it to the UK police cyber crime unit for the fraud and scam behaviour, which was then occurring on many of his accounts and apps.

Mr H understood that when he got his phone his 'Find My iPhone' (FMI) was switched on also.

So Mr H made a claim to AmTrust. AmTrust declined his claim as he wasn't able to prove that the manufacturers security measures were active on his phone. And that he failed to report it to the police as it believed the police in the country where Mr H was on holiday took these matters very seriously. It said it understood if the thieves removed the FMI he should have received an alert from Apple to advise him of this.

Mr H appealed but AmTrust wouldn't change its stance, so he brought his complaint to us. The investigator was of the view that it should be upheld as it was evident the thieves had accessed his email so could have removed any email alert from Apple too.

AmTrust didn't agree so Mr H's complaint 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. I'll now explain why.

I'm persuaded by Mr H's testimony that he tried to report the theft of his phone to the police in the country in which he was on holiday. It's not unusual for the police, the world over, to too often erroneously decide to ignore young men's reports of a crime of this nature. He did report it to the cyber crime police in the UK, which AmTrust has ignored.

I consider a policy term where an entity, not a party to the contract, must do something on behalf of the policyholder to satisfy the insurer, to be broaching on being unfair to the policyholder. That policyholder such as Mr H here, can't control how the police in the country where he was on holiday decided to treat him, when he reported this theft. We also don't know what the police might have been facing at that time with crimes far more serious than this one. Mr H was also lucky he wasn't injured by these five men, however had he been, the police might have then taken more notice. So I consider there are too many variables which could have affected the police at the time which ensured Mr H's crime was not taken seriously. Therefore, I don't consider the failure of the police here in this instance to produce a police report for Mr H to show AmTrust, should be a reason to decline a claim. As I said Mr H did report it to the police in the UK in any event which AmTrust should not have ignored.

Therefore in the light of the evidence, which I shall discuss below, I consider that the thieves clearly were all over his accounts and apps after stealing the phone and that is sufficient evidence that his phone was actually stolen.

Mr H believes as he had recently bought his phone that his FMI was switched on. The thieves on getting an unlocked phone as Mr H was, or just had been, chatting to his father, could have removed it and most likely did in my view.

As Mr H was on holiday, he had no other online access to his iCloud account or email until he returned home some two days after the theft, which is something AmTrust are ignoring in my opinion. He said when he got home he couldn't access his iCloud account as he was locked out, not being able to input the right password. It's also possible the thieves were able to access that too and change it. He didn't find any email alert from Apple either as no doubt the thieves deleted that too. In effect the thieves had plenty of time to do what they wanted between the time they snatched the phone to the time Mr H arrived home.

Mr H produced a series of documents all showing a variety of password changes or resets following unsuccessful logins, password authentication codes, payment problems, notifications about replacing all security information on things like Mr H's Microsoft account. I think this demonstrates there is little doubt Mr H's phone was stolen and far more importantly that they most likely switched off the FMI and deleted any Apple notifications too. I don't find much merit in AmTrust assertions about secondary security issues of Face ID given the extent of the attempts, sometimes successful, which these thieves managed to pull off in such a short time too, obviously without needing any Face ID or indeed maybe they changed that too.

Consequently, I consider AmTrust should meet Mr H's claim for a replacement phone subject to Mr H paying the excess under the remaining terms and conditions of the policy.

My final decision

So, for these reasons, it's my final decision that I'm upholding this complaint. I now require AmTrust Specialty Limited to do the following:

- Replace Mr H's mobile phone under the remaining terms and conditions of the policy with Mr H paying his excess if he hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or

reject my decision before 24 December 2025.

Rona Doyle
Ombudsman