

The complaint

Mr M has complained that Aviva Insurance Limited unreasonably refused his claim under his mobile insurance policy when it was stolen in an aggravated theft.

What happened

Mr M's mobile phone policy is part of his packaged bank account which also provides other insurances and services.

Mr M had travelled abroad and had just arrived. He was on a bus, when his phone was snatched out of his hand. Although Mr M gave chase he didn't get his phone back. Within hours he saw that money was taken out of one of his bank accounts. So in an effort to stop anything further happening, Mr M erased the phone from his Apple account.

Mr M then made his claim to Aviva and provided all the information required except for the fact that he couldn't put the phone into the required 'lost' mode since he had erased it from his Apple account. He also found out that he couldn't cancel the fact he had erased it either.

Aviva said the policy terms are clear, that if the phone has the functionality of 'lost' mode then the phone must be put into that mode so on that basis Aviva said it couldn't complete his claim.

Dissatisfied, Mr M brought his complaint to us. Given it was a policy condition that the phone when it has that functionality must be put into 'lost' mode, the investigator was of the view that Mr M's complaint shouldn't be upheld.

Mr M didn't agree so his complaint was passed to me to decide.

I issued a provisional decision on 13 January and I said the following:

'Having done so, I'm intending to uphold this complaint, so I'll now explain why.'

There is no dispute that Mr M went through a very distressing ordeal in having his phone forcibly snatched from him and that he gave chase to no avail. I can also understand how horrifying it was for Mr M to then see that over £6,000 was being transferred out of one of his bank accounts along with other activity going on too. More so when he was abroad also.

This policy is provided through one of Mr M's bank accounts under what is commonly called a 'packaged bank account' where varying services are provided to include things like mobile phone insurance, travel insurance and often car breakdown services to name just a few of the provisions.

So in the first instance, Mr M would have had to agree to have a packaged bank account which often has a fee for doing so in addition to further premium payments like for example the premium for this mobile cover now provided by Aviva. Further it

is therefore incumbent on the bank to provide all the policy documents of the services provided to someone like Mr M too. I also appreciate Mr M has had his packaged bank account for some time so he might not have been aware or noticed that the mobile phone insurer changed to Aviva.

Mobile phone security updates very regularly and as time passes further security features then form part of the phone's functionality. The 'find my iPhone' came first and a few years later 'lost' mode could then be activated.

Both erasing your iPhone in your iCloud account and putting it into 'lost' mode, are the ways to secure your data. The difference is that erasing it, prioritises data security by destroying it and making it unusable, and 'lost' mode protects the data, stopping thieves from using it but allows for potential recovery later. 'Lost' mode also allows the phone to be tracked as to its location also which is not available when you erase the phone. Both are done through the iCloud account, so Mr M didn't need his physical phone to put it into lost mode either, as he presently seems to believe.

I can understand Mr M's panic and horror when he saw money leaving another bank account and the thief was trying to buy crypto currency amongst other things. His sole aim at that time understandably was to protect his data, which effectively by erasing his phone Mr M achieved this. Whilst I understand Aviva would have preferred him to have put the phone into 'lost' mode as that's what the policy says he should have done, I think the salient point is that Mr M sought to protect his data as fast as possible and in the heat of the moment chose that method instead.

Given there is no dispute the phone was stolen as the thief accessed his data and stole money out of another account, I don't consider Mr M's understandable panic and choosing to erase his phone, instead of considering to put it into 'lost' mode, means his claim under this policy should be denied. Technology moves at an extremely fast rate these days. Mobile phones especially iPhones don't come with a written instruction booklet either. Therefore people generally come across varying changes, including security measures, by accident rather than by design. I consider Mr M in his understandable panic tried to do the best thing he could think of to protect his data given he could actually see it was being compromised. This is because there is no dispute Mr M owned this phone and that it was forcibly stolen from him and this policy does provide cover for phones that are stolen.

Therefore on a fair and reasonable basis, I consider it's both fair and reasonable in the particular circumstances of this complaint only, for Aviva to accept his claim subject to Mr M paying the necessary excess. Otherwise Aviva is merely refusing the claim on a mere technicality which is unwarranted here, given there is no doubt the phone was stolen. There is a small advantage to Aviva in having the phone put into 'lost' mode given that it enables the phone to be tracked and possibly recovered. However given the phone was stolen abroad, the likelihood of it being recovered (if 'lost' mode was used) would have been exceptionally remote in my view in any event. It's rare these days anyone gets their phone back after it was stolen, whichever method of data protection they used. The outstanding main advantage of putting the phone into 'lost' mode is that it protects the phone owner's data which can later be retrieved as it's preserved. Therefore it's not essential to the risk Aviva is insuring in my view, it's actually more essential to the phone owner.

The policy provides the following in the case of a theft claim:

'If Your Mobile Phone is Lost or Stolen, Likewise will replace it with a Mobile Phone of the same make and model of the claimed Mobile Phone wherever

possible. If the same make and model of Your claimed Mobile Phone is not available, we will contact you to discuss alternative options, which may include a replacement Device with equivalent specifications.'

Under the heading 'Replacement Devices' the policy says the following:

- *'This is not a new for old policy.*
- *Where Likewise replaces the Device, the replacement will be a remanufactured Device – not brand new.*
- ...
- *Likewise will provide a twenty-four (24) month warranty on the replacement Device provided to you.'*

Therefore I expect Aviva to provide Mr M with his replacement phone.

I consider Aviva's lack of progressing with Mr M's claim caused him unnecessary further distress and upset beyond that occasioned by the theft of his phone. This is difficult to quantify as Mr M remains deeply upset by the manner of the theft in his correspondence with us. Obviously Aviva had nothing to do with the theft and it's often difficult for victims of aggravated theft to distinguish one from the other, more so when the insurer then refuses to accept their legitimate claim for the theft. But here I consider Aviva's intransigence over an issue which is primarily for the phone owner's benefit as to data protection and retention rather than anything else did cause considerable added distress and upset for Mr M so I consider it should pay him £250 compensation. Our approach to compensation is more fully detailed on our website. However I consider this amount is in line with that approach making it fair and reasonable in these circumstances.'

Mr M accepted my provisional decision but felt that the compensation was too low given the ordeal he had been subjected to by the theft, noting his phone was then hacked and finding money leaving his account.

Aviva didn't agree with the timeline of Mr M's evidence about when he noticed his phone was hacked, and his money being taken out of his account and then erasing his phone.

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 again, I remain of the view that in the particular circumstances of this complaint, Aviva should accept Mr M's claim subject to Mr M paying the required excess and then providing him with a replacement phone.

This is because in Aviva's final response letter it solely denied Mr M's claim on the technicality that he didn't put his phone into lost mode and instead erased it as it said, 'As you have been unable to put your device in Lost Mode, I am unable to uphold this complaint aspect.' It said nothing whatsoever about the timeline of Mr M's evidence. If it wanted to rely on this then I would have expected it to detail its thoughts on his timeline of evidence to Mr M so he could clarify it. It was however solely relying on this technicality, only.

In Aviva's claims summary, it had green ticks against the following: proof of purchase, proof of usage, proof of barring, police report, loss certificate. It had a red x against lost mode.

This then mirrors its reasoning in its final response letter to Mr M.

In its cover letter to this service when sending in its file, it said on 4 April 2025, *'the claims validation team spoke to the insured and explained that if the insured could not place the device into Lost Mode, the claim could not be validated.'* It went on to say that on 4 April 2025, *'the complaint was closed and a final response letter was issued.'*

As regards Mr M's thoughts on the level of the compensation, as I explained in my provisional decision, there is no liability for Aviva to compensate him for the dreadful experience he suffered because this thief decided to steal his phone and then compromise his data taking money out of his accounts. Aviva is not responsible for that aspect at all, the thief was. So that has nothing to do with Aviva or its mobile phone policy.

I am only authorised to look at what Aviva did wrong here, and nothing more. On that basis I remain of the view that the amount of compensation I am now requiring Aviva to pay is commensurate with its failings in dealing with his claim only and it's also in line with our approach to compensation in these circumstances, as more fully detailed on our website.

My final decision

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

I now require Aviva Insurance Limited to do the following:

- Accept Mr M's claim subject to him paying the required excess and then providing him with a replacement phone.
- Pay Mr M the sum of £250 compensation for the additional and unnecessary further distress and upset it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 25 February 2026.

Rona Doyle
Ombudsman