

complaint

Miss T complains that a mobile phone claim put to Assurant General Insurance Limited (Assurant) has been declined.

background

As part of Miss T's bank account, she received mobile phone insurance. This complaint is against Assurant as they are the underwriters of the policy and this is a claim-related complaint.

Miss T put a claim to Assurant after she says her mobile phone was taken from her bag whilst at a birthday party at a bar. She says whilst talking to a stranger, she noticed shortly after he left that her mobile phone was missing.

Miss T reported the missing phone to the police and got a crime reference number. She also completed a claim form for the insurer.

After receiving the claim form and speaking to Miss T, Assurant declined the claim. They say that Miss T told them she used the phone for messaging and calling through the internet. But when they checked the phone against the manufacturer's warranty checker, it shows the phone has never been activated.

Miss T was questioned around the usage by the claims handler and she advised she'd made a mistake and she hadn't used the phone. She says she has two handsets and only one was used. Assurant said she couldn't change her version of events and suggested she log a complaint.

Assurant told Miss T it had concerns following fraud checks. The claim was further rejected so Miss T brought the complaint to us.

Our investigator looked into the complaint but rejected it for largely the same reasons as Assurant. He found there were inconsistencies in the version of events Miss T had given surrounding the handset and its usage.

Miss T provided further information which evidenced that she suffers from medical conditions that have an impact on her knowledge of incidents amongst other symptoms. Our investigator considered the new evidence and also put it to Assurant, but neither changed their view.

Miss T remained unhappy, so the complaint has now been passed to me to issue a final decision.

my provisional findings

I issued a provisional decision on 11 October 2017 saying that I intend to uphold the complaint and require Assurant to replace the phone in line with the policy terms. This is what I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Under the policy terms, Assurant will replace Miss T's phone if it's lost or stolen. The terms say

- ☐ *she may be asked to provide proof that the phone is hers;*
- ☐ *she will need to confirm the make and model of the phone;*
- ☐ *she must take reasonable care to answer all questions honestly;*
- ☐ *if false information is provided and fraud is identified then Assurant won't pay the claim.*

Having listened to the three telephone conversations between Miss T and the claims handlers, I can understand why this claim was initially declined. Miss T has changed her version of events.

In the original call Miss T confirms that the phone was in use, although only via the internet and a sim card was never present. When Assurant checked this information against the manufacturer's usage checker, it confirmed that the phone had never been in use or activated.

It is worth noting that the claims handler confirmed that any use, whether it be internet or sim card related, would require activation and registration. So based on this information, I can see why when Miss T changed the version of events and confirmed the phone hadn't been used, the claims handler had concerns over the authenticity of the claim and it was declined.

But Miss T has gone on to supply some very detailed further information. In this is a doctor's report that states that Miss T doesn't always have knowledge of events that have taken place. She has also included in this information, recent evidence of medication she takes to assist her with controlling her conditions. On this basis I think it's likely Miss T has given incorrect information during the earlier phone calls. But on balance, taking account of her circumstances, I don't think she knowingly provided false information or made a fraudulent claim.

Miss T has also confirmed that she has a carer. Miss T has said that the carer was present during the completion of the claim form but not during the telephone calls. On this basis I think Assurant should've taken this into consideration when assessing this claim and made necessary adjustments.

Assurant have said they considered Miss T's further submissions and it hasn't made a difference to their decision to decline the claim. But I can't see any evidence that this has been used or considered when declining the mobile phone claim. In these circumstances I don't think it's fair for Assurant to refuse the claim.

responses to my provisional decision

Miss T had nothing further to add.

Assurant agreed with my provisional decision and agreed to replace the phone subject to the relevant excess being paid.

findings

As neither party has disputed my provisional findings, I see no reason to depart from my provisional decision.

my final decision

My final decision is that I uphold this complaint and order Assurant General Insurance Limited to replace the mobile phone subject to relevant excesses being paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 1 December 2017.

Tom Wagstaff
ombudsman