

The complaint

Miss K complains that Assurant General Insurance Limited mishandled her claim on a mobile phone insurance policy.

What happened

Miss K had a mobile phone insured on a policy with Assurant. Her phone had a “dual SIM” feature.

Unfortunately, on 31 December 2023, Miss K reported to Assurant that she’d lost her phone. On about 4 January 2024, Assurant sent Miss K a replacement phone.

On about 2 February 2024, Miss K complained to Assurant that the replacement phone didn’t have a dual SIM feature. Assurant said that the replacement phone was dual SIM capable as it supports an eSIM. Miss K was not happy with this.

On about 14 February 2024, Assurant sent Miss K another replacement phone. She complained that the second replacement phone didn’t have a dual SIM feature.

By a final response dated 22 March 2024, Assurant turned down the complaint. It said it had fulfilled the claim and Miss K had kept both replacement phones.

Miss K brought her complaint to us in late May 2024. She asked us to direct Assurant to send her another replacement phone with a dual SIM feature.

Our investigator recommended that the complaint should be upheld in part. She didn’t think that Assurant had provided a suitable replacement handset with the same specification. She recommended that Assurant should, upon receipt of the second handset, offer Miss K the choice of another handset with an equivalent specification.

Assurant disagreed with the investigator’s opinion. It asked for an ombudsman to review the complaint. It says, in summary, that:

- It has provided a phone that, from a technology standpoint, has all the same functionality of the original.
- Miss K has received exactly the same make and model with the only difference being that the replacement does not have a second physical SIM tray.
- The phone is however dual SIM enabled, meaning that two SIM’s can be used in the device by using an eSIM. Instructions on how to do this can be found online, or her network would be able to assist her.
- An eSIM is a digital SIM built into the phone and can be activated without requiring a physical SIM card.

- eSIM's are also becoming more and more popular with manufacturers and, most networks will eventually no longer provide physical SIM cards. You can also have multiple phone numbers and plans on a single device and considering one eSIM allows you to have multiple phone numbers, you only need one. You can also convert a normal SIM card into an eSIM.
- A like- for- like replacement has been sent to Miss K in line with the policy terms.
- A number of networks offer e-SIM support.
- e-SIM's can also be used abroad.

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.

The Financial Ombudsman Service is bound by the Financial Conduct Authority's dispute resolution rules. One of the rules is that, before we can investigate a consumer's complaint, the consumer must first have made that complaint to the regulated firm and waited up to eight weeks for a final response.

We sometimes find that a consumer makes a complaint to the firm and receives a final response and then brings the complaint to us adding new points of complaint. In such circumstances, we can usually only investigate the original complaint to which the firm responded in its final response. Also, we have to operate a two-stage process under which an investigator gives an opinion and, if necessary, an ombudsman gives a final decision.

The policy terms include the following:

"If your mobile phone is lost or stolen we will replace it with a mobile phone of the same make, model and memory size. If we cannot do this you will be given a choice of models with an equivalent specification.

Replacements

1. This is not 'new for old' insurance, and replacement device will come from fully refurbished stock (not brand new). Before we send any device to settle a claim, we carry out a comprehensive checking process to make sure they are in full working order. All devices will come with a 1-year warranty."

Miss K has told us that, in addition to her work, she runs a business. She also travels abroad. So I accept that she used two SIM cards in the phone she lost.

I consider that Miss K had a reasonable expectation that – compared to the position she was in before she lost the phone - Assurant would put her in the same position. I consider that she had a reasonable expectation that she would be able to put her two SIM cards in the replacement phone. I don't think Miss K was familiar with eSIM at all.

I accept that, compared to the lost phone, Assurant provided a first replacement of the same make and a similar model. However, I'm not persuaded that it was the "same model" in ordinary language or like-for- like or an equivalent specification. That's because it had only one tray for a physical SIM card.

The replacement was enabled for an eSIM as an additional or alternative SIM. Miss K told Assurant that she didn't feel comfortable with an eSIM.

Assurant appeared to accept that, compared to the lost phone, the first replacement phone wasn't suitable as an equivalent phone for Miss K. It agreed to send a second replacement.

However, the second replacement was substantially the same as the first replacement. Miss K wasn't (and still isn't) comfortable taking the steps necessary to activate an eSIM. Also, not all network providers (in the UK or abroad) support eSIM. So I don't consider that Assurant treated Miss K fairly by the replacements it provided.

From what she told us in her complaint form, Miss K kept both replacement phones and used a SIM in each of them, at least up to late May 2024.

I haven't seen enough evidence that she had complained to Assurant about recording information about her that would damage her reputation or credit rating. Miss K included such a complaint in her complaint form to us. Our investigator didn't investigate that further complaint and I consider that was in line with the rules. So I make no findings on that further complaint.

Putting things right

I've thought about what to direct Assurant to do to try at this late stage to put things right for Miss K.

I keep in mind that the policy terms say that if Assurant cannot replace the lost phone with a phone of the same model, then it would give her a choice of models with an equivalent specification. I consider that such a choice would be the most fair and reasonable outcome. That will be conditional on Miss K returning the two replacement phones.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Assurant General Insurance Limited to give Miss K a choice of models with an equivalent specification to her lost phone, on condition that she has returned the two replacement phones Assurant previously provided.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 5 February 2025.

Christopher Gilbert

Ombudsman