

The complaint

Mrs R complains about Domestic and General Insurance's (D&G) poor service following a claim under her gadget insurance policy.

What happened

Mrs R held a gadget insurance policy with D&G. She lost her phone and made a claim. D&G ultimately replaced that phone as well as refunded her a month's premium. D&G got its contracted retailer to provide Mrs R with the replacement phone. D&G said that the phone that Mrs R was given was a brand-new phone and the retailer it used confirmed this as well.

Mrs R said that she experienced some issues with the phone and believed that the phone supplied, was a refurbished phone. She contacted the retailer who supplied the phone, and the retailer gave her instructions on how to re-boot the phone. And if the re-booting wasn't successful advised Mrs R to visit the phone manufacturer's shop to get them to have a look at the phone.

Mrs R was unhappy and raised a complaint with D&G as she said that as she was unable to use the phone, she had experienced stress and inconvenience, which was increased due to her personal family vulnerabilities. In its final response, D&G said that Mrs R was sent a replacement phone, that she had issues with the connectivity to her network. It sent her instructions on how to connect the phone with her network. And believed that as she hadn't contacted them again, the issue must have been resolved. So, it apologised that she had to re-boot the phone and was unable to uphold her complaint.

Mrs R was given her referral rights and referred a complaint to our service. One of our investigators considered the complaint and thought it should be upheld. She said that D&G had a duty to supply a working phone, which wasn't done. And as the replacement phone wasn't useable, D&G should pay compensation of £50 for the trouble and upset caused.

Mrs R accepted the view, D&G did not. It said that it felt that the view was unfair. It had supplied Mrs R with a brand-new phone and the only issue with the phone was that it wasn't connecting to Mrs R's network. It said that it gave Mrs R information to allow the phone to connect with the network and as it hadn't heard anything from Mrs R thought that the issue had been resolved. Even if the issue hadn't been resolved, it would have referred Mrs R to the phone manufacturer to assist. So, it asked for a decision from an ombudsman.

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.

I considered the complaint, and I thought the complaint should be upheld. I issued a provisional decision on 6 September 2023 and asked both parties to send me anything else by 4 October 2023. In my provisional decision I said:

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of the complaint.

Having done so, I'm minded not to uphold this complaint. I understand that this is likely to be a disappointment to Mrs R, but I hope my provisional findings explain why I think this is fair.

I have reviewed the policy terms and conditions and they state that in cases of loss D&G ought to replace the phone, which can be a refurbished phone. Due to Mrs R's personal vulnerabilities D&G agreed to replace the phone with a brand- new phone and directed its supplier to send Mrs R a new phone.

There is no issue that Mrs R was sent a phone. Mrs R said that the phone she was sent was a refurbished phone. She believed that it was the case as when she attempted to access the storage data file, an error triangle came up on the phone and a family member advised her that this meant that the phone had previously belonged to someone else.

Apart from Mrs R's testimony that the phone was refurbished, I haven't seen any expert evidence from Mrs R to confirm this. In any event, as the policy terms and conditions state that the obligation on D&G was to supply a phone (which could've been a refurbished phone), I'm satisfied that this was done.

But I do think it's right that the phone supplied should be working and at the very least making and receiving calls. So, I've looked into this further.

D&G said that it supplied a brand-new phone and in the absence of any contrary expert evidence from Mrs R or evidence such as the photos she was asked to supply that showed the broken seal and box of the phone, I'm satisfied that the phone supplied was new.

I've listened to the call record when Mrs R referred her complaint to our service. During the call she said that after she had collected a sim from a phone shop, she got a family member to put the sim in the phone. She said the phone was working but the app that allowed storage of data wasn't working, and this is when she saw an error triangle appear on the phone. She said that what followed were several calls to D&G as she couldn't get the phone to work.

I asked Mrs R for further clarification on this, and she did not respond. I also asked her whether she followed the instructions that D&G had sent her to re-boot the phone, again she did not respond. I asked her if she took the phone to the phone manufacturer for further assistance, as she was advised to by D&G, again she did not respond.

Further, I asked her how she managed to contact D&G, in view of her comments that she had been in touch with D&G every day to explain how much stress she had been under without the use of a phone. I noted that the phone Mrs R was calling from, was the same number for the phone that wasn't working. Mrs R did not respond to this query either.

From the evidence, I can't see that D&G did anything wrong here. It advised her to re-boot the phone, which she didn't do. It advised her to take the phone to the phone manufacturer, again she didn't do this. Further, Mrs R didn't go back to D&G to inform them that there was still an issue with the phone, for them to make further investigations.

When our service looks at recommending compensation, we look at the impact of the business error on the consumer. In this complaint Mrs R said that she was unable to use the phone and due to her family circumstances, she relied on this phone, and this caused her stress and inconvenience.

Whilst I accept that not having a workable phone can be stressful, I'm not satisfied that this was the case here. Mrs R said that she had to call D&G several times and 'every single day' since she had the phone. So, I think she had access to a phone. Further, she has provided me with no explanation as to why she didn't carry out the re-boot of her phone or why she didn't take her phone to the phone manufacturer for further assistance.

Consequently, I don't think it's fair or reasonable for D&G to be held responsible for the phone not connecting to the network. Accordingly, I can't reasonably ask it to do anything further to resolve this complaint at this stage. I will of course review any further evidence that Mrs R may wish me to have sight of.

Responses to my provisional decision

D&G agreed with my provisional decision. Mrs R did not respond.

As there has been no objection to my provisional decision, my final decision is the same as that of my provisional decisions.

My final decision

For the reasons given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 1 November 2023.

Ayisha Savage
Ombudsman