

The complaint

Miss L complains about Wakam S.A. (Wakam), regarding a claim under her mobile phone device protection policy for damage to her phone.

Wakam uses agents to administer and provide services under the policy, as well as to deal with claims and complaints. Reference to Wakam in this decision includes those agents.

What happened

In November 2022 Miss H's phone was damaged after a fall, cracking the screen. She contacted Wakam to tell them about the damage and make a claim. She received an email requesting she pay the £40 excess due under the policy, after which they would send her the instructions for the repair or replacement of her phone. She was also told this process would be quicker if she sent proof of payment of the excess, which (after some exchanges with Wakam about the detailed information they required) she did some 12 days later. However, her phone then broke completely, making it unusable. She contacted Wakam, who couldn't locate her payment.

Miss L contacted Wakam again and was asked to deactivate a tracking feature on the phone. Miss L was asked to send the phone to a service centre, but she asked if she could take it to a branch of a Wakam partner repair firm and was told to deal with the firm directly. She went to a branch and was told the phone couldn't be repaired (and bought a temporary replacement phone at a cost of £12.04). At that point, Wakam said the phone was beyond economic repair and issued a voucher for the value of the phone (redeemable at an online source). However, concerned at the prospect of not having a phone over the Christmas and New Year period and losing personal data from the phone if it was replaced, Miss L took the phone to another branch of the firm, who were able to replace the screen (at a cost of £119).

However, concerned at the sequence of events and what she thought poor communication from Wakam, Miss L had lodged a complaint with them. But they didn't uphold it. In their final response, they said they'd asked for proof of payment (including bank account details) three times to enable them to locate the payment and progress the claim. So, part of the delay was due to Miss L not responding to their requests. They said they'd then processed the claim, creating a work order and issuing a voucher for the value of the phone (as it was beyond economic repair). They also referred to policy terms and conditions covering the claims settlement procedure, including backing up data and disabling the tracking feature. While Wakam didn't uphold the complaint, they offered (as an *ex gratia* payment) to refund 25% of the excess.

Separately, Wakam said they wouldn't reimburse Miss L the £119 for the screen replacement as they'd issued a voucher equivalent to the value of her phone according to the policy terms and conditions. And they didn't recommend customers paid for repair of their device as the cost wasn't covered by the policy.

Unhappy at what had happened, Miss L complained to this service. She thought Wakam's communication had been poor, and because of the delays locating the payment of her excess, her phone had broken completely. A voucher from Wakam wasn't acceptable as she

didn't intend to use it (having paid for the replacement of the screen). She wanted a refund for the cost of the policy (£35.88) as well as reimbursement of the £40 excess; £12.04 for a temporary phone; and £119 for the screen replacement.

Our investigator didn't uphold the complaint, concluding Wakam didn't need to take any action. She thought the policy terms and conditions made it clear the need to back up data and disable the tracking feature. And Wakam had asked Miss L for proof of payment to speed up the issue of a work order and shipping details to their service centre. But Miss L hadn't been able to provide the necessary degree of detail to enable this to be expedited. And in deciding the phone was beyond economic repair (and issuing a voucher for the value of the phone) they'd also acted in line with the policy terms and conditions.

Miss L disagreed with the investigator's conclusions and requested an ombudsman review the complaint (though noting she was refunded the £12.04 for a temporary phone). However, she said she shouldn't have been required to pay the cost of replacing the screen, as her policy should have covered it. While she noted Wakam had issued a voucher (for £119) she doubted she would use it to buy another phone from the online site. And the first branch she approached said the phone couldn't be repaired – but the second branch said it could (and replaced it). Miss L said the branch told her she would need to pay for the repair and reclaim the cost from Wakam. She chose to have the phone repaired to avoid delay (in sending it to Wakam's service centre) and to avoid loss of data. While she accepted the £40 excess wouldn't be repayable, she maintained she should be refunded the £119 cost of replacing the screen.

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.

My role here is to decide whether Wakam have acted fairly towards Miss L.

The key issue in Miss L's complaint is whether Wakam acted fairly in how they responded to her claim for the damage to her phone. Miss L says there were delays in confirming receipt of the excess payment, leading to the phone breaking completely. Wakam should reimburse her the £119 cost of having the screen replaced. Wakam say they asked Miss L three times to provide sufficient detail of her payment of the excess. Miss L says Wakam shouldn't have needed to take so long to confirm receipt of her payment from the time she made it.

On the cost of replacing the phone's screen, Miss L says Wakam should cover the cost under the policy (as the phone wasn't beyond economic repair). Wakam say they acted in line with the policy terms and conditions in issuing a voucher for the value of the phone.

In considering the complaint, I've carefully considered the views of both Miss L and Wakam, together with the supporting information and evidence they've provided.

On the first issue, the time taken to confirm receipt of the excess payment, I've looked at the evidence. It does indicate Wakam asking Miss L for more detail on the payment to enable them to confirm it (such as her account number). While the damage to her phone will have affected Miss L's ability to provide the necessary detail, it did take some time. So, I don't think it unreasonable of Wakam to ask for details to enable them to locate and confirm payment.

I've also considered the issues of data backup and disabling the tracking function on the phone (which, respectively, concerned Miss L and took time). I've also looked at the policy

terms and conditions referred to by Wakam in their final response. They refer to *Section 6.3 What is the claims settlement procedure?* Which states:

“Prior to shipping the insured device to the service centre, the insured user is responsible for the following:

- If the device contains files, personal data, databases, or software stored by the insured user, to create an external backup before deleting them from the device before shipping the insured device. The personal data will be destroyed by the service centre upon receipt of the insured device.*
- If the insured device contains a “tracking” or “cloud” feature or account (or equivalent), disable this feature or account prior to shipment.”*

So, I think the policy terms and conditions make both requirements clear, and they’re the responsibility of the policyholder (Miss L).

I’ve noted the same section also includes the following:

“You must in any case send the insured device with the approval of the administrators, to the service centre designated by the administrators for diagnosis to be carried out at the insurer’s expense.

The administrators will provide you with appropriate instructions for shipping the insured device or in order to get the insured device repaired locally.”

I think this sets out the process to be followed for a phone to be assessed and a decision made on whether it can be repaired or not. From what I understand of the sequence of events, Miss L first took the phone to a branch of the repair firm, who said it couldn’t be repaired. That being the case, it appears this was the trigger for Wakam deeming the phone to be beyond economic repair and for them to issue a voucher for the value of the phone. The issue of the voucher in those circumstances would be in accordance with the following policy terms and conditions, under *Section 4 - What benefits are payable under the insurance cover?*:

“If the cost of repair exceeds the replacement value of it, after examination of the insured device, it cannot be repaired, you will receive a replacement in the form of a voucher redeemable on [...]co.uk in accordance with the conditions and limitations set out in 4.3 and 4.4 of these terms and conditions of insurance.”

(Section 4.3 covers the excess payable under the policy and Section 4.4 covers the detailed calculation of the replacement value of the phone).

So, I’ve concluded (when Wakam issued the voucher) they were acting in accordance with the terms and conditions of the policy (as the first branch concluded the phone couldn’t be repaired).

However, it appears the second branch where Miss L subsequently took the phone said it could be repaired (and they replaced the screen). Miss L says the branch told her she would need to pay for the repair and reclaim the cost from Wakam. I can understand why she chose to have the phone repaired to avoid a delay (in sending it to Wakam’s service centre) and to avoid any loss of data. But given Wakam had already issued a voucher for the value of the phone, based on what the first branch concluded, I don’t think Wakam acted unreasonably based on what they had been told at the time (they issued the voucher). And in doing this they acted in line with the policy terms and conditions, as set out above.

My final decision

For the reasons set out above, it's my final decision not to uphold Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 22 August 2023.

Paul King
Ombudsman