

The complaint

Mr P is unhappy that Royal & Sun Alliance Insurance Plc (RSA) has declined his home insurance claim for theft following a burglary, and voided his policy from the point of last renewal (treated it as though it hadn't existed from then on) for underinsurance.

What happened

In November 2018 Mr P and his partner suffered a distressing burglary at their home when it was broken into and they were attacked. A number of valuable items of jewellery and a large amount of cash were stolen. RSA appointed loss adjusters and asked Mr P to complete a loss list. Specialist jewellers were appointed to estimate the value of items stolen. Mr P and his partner had four items of jewellery specified on the policy as being valued at over £2,000. His partner also had two items (earrings and a pendant) which weren't specified which she'd been given as a gift some years previously. She didn't appreciate that that they might be worth more than £2,000 each. RSA's jewellers estimated the value of those two items at respectively £17,500 and £20,000.

RSA advised Mr P that the maximum pay-out for stolen cash would be £250. With regard to the building it estimated the rebuild value to be £483,000 whilst the sum declared on the policy was £300,000. With regard to the contents it said, with the revised value of the valuables, that the contents should have been valued at £90,000. The maximum value it would insure contents at was £75,000. The policy started in 2007. At the time it would only have accepted the policy if the valuables were worth £15,000 or less. Mr P's partner explained that she had sought valuations with jewellers for the two items and had been given prices the lower of which were £2,460 (for the earrings) and £5,796 (for the pendant). A watch was stolen and recovered when the thief attempted to sell it, it was specified at £2,500 but was estimated by RSA to be worth around £7,000.

RSA advised that it was voiding the policy back to the renewal date of October 2018 and declining the claim because of the considerable level of underinsurance. It said that even accepting the lower valuations obtained for the earrings and pendant this still meant they were considerably over the £2,000 at which they should have been specified. It pointed out that as well as the items stolen it was estimated that £15,000 worth of valuables remained in the property. It believed Mr P had failed to declare the value of his contents when renewing the policy, despite a warning that he needed to declare any changes to the policy.

Mr P was unhappy with this and referred his complaint to this service. Our investigator after reviewing the complaint thought that RSA hadn't asked clear questions at renewal about values, so should overturn the voidance and deal with the claim.

RSA didn't agree and the matter has been referred to me for further consideration.

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.

Mr P has asked why RSA didn't pay out for the items which weren't disputed. When a policy is voided the whole claim isn't paid, even if there are items which are correctly valued or the undervalue relates to items not claimed for. This is because, as a consequence of being voided, the policy is deemed not to exist at the time of the claim.

Before considering whether RSA is entitled to void the policy, I have to consider the provisions of the Consumer Insurance (Disclosure and Representations) Act 2012. In order for RSA to exercise its rights to take action under the provisions of that Act (to act as it would have done if it had known the correct information) it must be shown that a "*qualifying misrepresentation*" had been made by Mr P. As RSA has only sought to void the policy back to the renewal date in October 2018, any misrepresentation must have been made at the time of that renewal. Under the Act a consumer has a duty to take reasonable care not to make a misrepresentation. In considering whether Mr P was in breach of that duty I have to consider what questions were asked or what information was required of him at renewal. The Act says the following should be taken into account:

"in the case of a failure to respond to the insurer's questions in connection with the renewal or variation of a consumer insurance contract, how clearly the insurer communicated the importance of answering those questions (or the possible consequences of failing to do so)"

The policy started in 2007 but we don't really know how much the valuables were worth then. Most policies these days have some sort of index-linking to cover the rise in value of property/contents. The renewal notice from 2018 states:

"Please remember to keep us informed about any changes in your circumstances so we can update your cover and premium accordingly. If you don't let us know about changes to your situation it could affect any claim you make, or your policy may even be cancelled."

While I appreciate that Mr P had valuables in excess of the £2,000 limit and that his contents were probably worth considerably more than the £50,000 limit on the policy, it requires that RSA be advised of any *changes*, and he didn't have any (so far as he was aware). The renewal letter later states, under the heading "*what are my obligations?*":

*"To make sure the sums insured you have chosen remains adequate for your insurance needs, ...
Some items, such as jewellery and precious metals, often change in value and you should make certain that these items are insured correctly"*

As the above is in a different part of the letter I don't think RSA made clear what the consequences were of not ensuring the sums insured were adequate.

Further, I think it was difficult for the jewellers to estimate the values of the items stolen, especially as they were reliant on descriptions. I note that RSA didn't raise objections to Mr P's partner's values obtained of the earrings and pendant, which were markedly different from RSA's valuation.

So, as I don't think that the importance of answering questions or the possible consequence of failing to do so, regarding values of items was made clear at renewal RSA can't say that a qualifying misrepresentation was made. So I don't think it's entitled to void the policy.

Putting things right

RSA should reinstate the policy and remove any reference to the policy being voided from any internal or external databases.

I'm going to require RSA to reconsider the claim. It will be allowed to do that in line with the remaining policy terms and conditions. Mr P should be aware that there is a policy limit of £15,000 for valuables and RSA may consider it's entitled to reduce any claim proportionately by the amount of underinsurance. The same may apply to any damage to the building. But as RSA hasn't specified the amount of underinsurance and how much it might reduce the claim by, Mr P must be given the opportunity to challenge any proposed payments. This is particularly so in light of the different valuations his partner obtained.

My final decision

I uphold the complaint and require Royal & Sun Alliance Insurance Plc to act as I've set out under "Putting things right" above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 September 2020.

Ray Lawley
Ombudsman