

## The complaint

Mr L complains that U K Insurance Limited (“UKI”) has unfairly declined a claim he’s made on his contents insurance policy following the theft of some items from his house.

## What happened

I issued a provisional decision on this matter on 19 January 2022, an extract of which is detailed below.

*“The background to this complaint is well known to the parties and has been comprehensively documented by our investigator so I have provided a summary of what happened.*

- *Mr L has a contents insurance policy underwritten by UKI.*
- *There was a burglary at his house and a number of items were stolen. The police investigated the incident and Mr L reported the loss to UKI.*
- *The following day, Mr L says the burglars returned and stole further items. The police investigated again but thought Mr L may have been confused about the second burglary.*
- *Later in the month, Mr L advised UKI of other items that had been stolen in addition to those reported originally and provided some revised valuations.*
- *UKI investigated the claim and said there were discrepancies between the list of items stolen he had reported to the police at the time of the incident (which I’ll call List A) and the list he submitted under his claim (List B).*
- *It also said there were some inconsistencies in Mr L’s story including where he was when the burglary happened and about the whereabouts of the keys to the property.*
- *UKI concluded Mr L hadn’t met the claim condition in the policy and it declined the whole claim. Mr L complained but UKI maintained its position and so he brought his complaint to this Service.*
- *Following this Service’s involvement, UKI agreed to settle the claim for the items on List A but declined the remainder of the claim. It also accepted that Mr L had provided explanations and clarification about the majority of its concerns.*
- *Our investigator said she understood why Mr L might not have immediately identified all the stolen items so soon after the burglary. She was also satisfied he had provided an updated list of stolen items to the police and it had received these.*

- *She decided that UKI should reassess the claim for the additional items stolen in the first burglary and pay Mr L 8% on top together with £350 for the distress and inconvenience UKI had caused. But she didn't think UKI needed to pay the claim relating to the second burglary.*
- *She did say, if further information was subsequently received from the police, UKI should reconsider the claim for the items stolen in the second burglary and it confirmed it would do this.*
- *Mr L accepted her recommendations. But UKI remained concerned about the difference in the loss lists and that it hadn't been given evidence of the updated list being sent to the police until four years after the burglary, and then only after this Service's involvement.*
- *It asked an Ombudsman to make a decision.*

### ***What I've provisionally 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.*

*What's still in dispute*

*As I explained above, following our involvement, UKI has now agreed to pay the claim for the stolen items on List A.*

*Mr L has accepted the Investigator's conclusion that UKI doesn't need to pay the part of the claim relating to the items he said were stolen in the second burglary. Mr L has complained to the police about its report of the incident. UKI has confirmed it will look at this aspect of the claim again if further relevant information is received from the police following this complaint.*

*So, what remains in dispute is the items stolen in the first burglary that weren't reported to the police at the time, only sometime later. So that will be the focus of my decision.*

*The reason for the claim decline*

*It's important to set out that when an insurance claim is made, the policyholder will need to substantiate the loss they're claiming for. So, in a theft-related claim like this, it's for the policyholder to be clear about which items have been stolen and to show that they owned them. This is to ensure insurers aren't exposed to exaggerated or dishonest claims*

*Mr L blames some of the inconsistencies on the police report completed at the time of the burglary, which he says contained errors. While I acknowledge, Mr L's concerns about the report, I can see why UKI initially took the stance it did as there are a significant number of differences in what the report showed he said to the police and what he said to UKI. I think it was reasonable UKI placed significant weight on the police report in reaching its decision to decline the claim as, on the face of it, these notes represented a contemporaneous record of what happened and the items stolen and were from an apparently reliable source.*

*The concerns about the loss lists*

*As I explained above, UKI seems to have accepted Mr L has now provided clarification*

*on the majority of the inconsistencies. But it's still concerned about the difference in the items on List A and List B.*

*List B contained a significantly higher number of items not originally reported to the police but which were reported to UKI subsequent to the first burglary. The value of these additional items was also significantly higher.*

*While UKI says it only received confirmation the updated loss list had been supplied to the police following our involvement and some years after the original claim, the evidence shows Mr L did submit the updated list to the police in 2017 and received an acknowledgement the list had been received, and updated.*

*So, I've gone on to think about the circumstances of the burglary and whether there's a reasonable explanation for the difference in the loss lists. In my experience, it's not uncommon for the victims of a burglary to experience shock in the aftermath. I note that the police attending the incident said Mr L was severely sleep-deprived and "not functioning properly" after the incident. The report went as far as to say Mr L's mind may have been playing tricks on him and there may have actually only been one burglary. For these reasons, I understand why Mr L may not have immediately been able to identify all the items that had been stolen.*

*But I need to balance this with the responsibility Mr L had to report accurately and consistently the items that had been stolen, both to the police and to UKI. There's undoubtedly a large discrepancy between the two lists so I've gone on to think carefully about this.*

*When considering the two lists, I think there are some items it would be understandable Mr L didn't notice were missing immediately. These are items that perhaps wouldn't be used every day or are smaller such as jewellery or watches and so I can understand why Mr L might not have notified the police of these at the time. Given that Mr L has provided everything UKI asked for in relation to these items, I think it should reconsider this aspect of the claim.*

*But what I find less easy to understand are the larger items such as the other musical instruments particularly as from Mr L's testimony, these were in the same room as the guitar he did report as stolen to the police at the time. Given that Mr L plays musical instruments and has a good knowledge of their value, I think it would be reasonable to expect him to have noticed all these items missing at the same time and to have reported them to the police accordingly.*

*Even accepting that, according to the police report, Mr L's home was in a general state of untidiness, with personal possessions all over the property, I'm satisfied these items should have been obviously missing. And because of this, I'm not persuaded UKI should include these in its reconsideration of the claim."*

I concluded UKI should reconsider the part of the claim relating to the items on List B stolen in the first burglary, apart from three guitars and a saxophone, in line with the remaining policy terms and conditions. Together with interest at 8% on the items in List A if UKI decided to cash settle and an award of £350 to Mr L for the distress and inconvenience UKI caused.

UKI responded to say it broadly accepted my provisional decision. Mr L responded and provided further comments which I've summarised below:

- He's a collector of various different types of items and often has things laying

around the house. It's therefore easier for him to not notice items are missing. He provided a recent photo to demonstrate this.

- He no longer played the saxophone so it's understandable he didn't notice it was missing.
- The likely location of the guitars in the hallway means he wouldn't have noticed them missing by the time the Police arrived.
- He only had a short period of time to assess what was stolen before the Police arrived and it's not fair UKI refused to pay items not on this list.
- He reiterated the alleged discrepancies in the Police report and his complaint to the Information Commissioner's Office (ICO).
- He also reiterated that a second burglary did happen.
- He said he reluctantly accepted the Investigator's recommendation that UKI is allowed to wait for the outcome of the ICO complaint before considering the claim relating to the second burglary.
- He offered a home visit to understand better the state of the property.

### **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.

#### *Home visit*

Mr L has offered a visit to his house to see the environment and surroundings he lives in. This kind of inspection is outside of the usual scope of this Service, and I'm satisfied I can fairly decide this complaint based on the available evidence, so I won't be taking him up on this offer.

#### *The stolen items*

Mr L pointed out he only had a relatively short time to assess what was missing before the Police arrived so it's understandable he missed some items from the initial list and only added them when submitting his claim to UKI. So, I've borne this in mind when considering this part of the complaint.

I acknowledge what Mr L says about being a collector of various items and that he has many of them lying around the house at various times. He's provided a recent photograph which he says demonstrates this. And I agree this photo does show a large number of items in one of his rooms. But this photo was taken in January 2022. And while it shows the room to be extremely cluttered, it is of course from some years after the burglary so is not necessarily representative of the time of the burglary.

So, I've revisited other evidence I've been provided with, and there are other photos taken by the Police shortly after the burglary. These show the same room, and it does still contain multiple items but a level of untidiness that's only a fraction of what's shown in the photos from this year. I acknowledge that the photo was taken after the items were stolen so there are less things lying around than there would have been. But many of the items Mr L identified as stolen were small in size such as jewellery, watches and rings so I don't think their absence would have made a significant difference to the extent of the untidiness, nor made it that much more difficult to see the alto saxophone was missing from this room as he has suggested.

Mr L points out the Police noted there were some guitars in the hallway together with a number of amplifiers. Mr L says he wouldn't have noticed items missing from this area in the time before the Police arrived. I acknowledge what Mr L says here but to me, on balance, I think the absence of three guitars from a hallway would have likely been noticeable.

Overall, I remain of the view that, on balance, the alto saxophone in the living room and the three missing guitars in the hallway of the house would more likely than not have been reasonably obviously missing. So, I'm still not persuaded they should be included in UKI's reassessment of the part of the claim related to List B.

### *The second burglary and the ICO complaint*

In my provisional decision, I referenced the Police view that Mr L *may* have imagined the second burglary but I expressed no opinion about whether I thought this was right or not. I acknowledge Mr L firmly believes there *was* a second burglary and disagrees with the opinion expressed by the police officer saying it was misleading and insulting. And as I've explained before, he's made a complaint to the ICO.

I also said Mr L had accepted our Investigator's view that UKI could wait for the outcome of his complaint to the ICO and any subsequent response from the Police before reconsidering the claim for the items he said were stolen in this second burglary. I didn't make any findings on this aspect of the complaint because of this but noted UKI had agreed to do this.

Mr L clarified that he had reluctantly accepted the Investigator's view but felt UKI should reconsider this part of the claim irrelevant of the outcome of the complaint to the ICO and any further response from the Police. I note from the file that the ICO has now responded to the complaint but it's not clear whether Mr L has provided this to UKI so he may wish to do this for UKI to consider what it's said. It's also not clear whether the Police have responded following the ICO's conclusions but if they have, Mr L may wish to forward this to UKI to consider too.

### *Overall*

In summary, I've thought very carefully about this complaint and Mr L's additional comments. And having done so, I remain satisfied the way I said the complaint should be settled in my provisional decision is fair and reasonable in all the circumstances so I won't be changing my direction to UKI.

### **Putting things right**

For the reasons I've explained, I think UKI needs to do more than it has in this case.

It should reconsider the claim relating to the items in List B stolen in the first burglary, but not included in List A, apart from the three guitars and the saxophone, in line with the remaining policy terms and conditions.

The issue of possible underinsurance seems to remain although I've not seen anything from UKI which explains where its total loss figure came from. UKI may want to take into account the *possible* underinsurance when reconsidering the claim and if it does, it should explain clearly to Mr L how it reached this conclusion, providing evidence to substantiate it and a clear explanation of how it reaches its eventual settlement figure.

UKI accepted it could have settled the part of the claim relating to List A much sooner, by 25 September 2017. If it cash settles this, it should additionally add 8% simple interest per annum\* from that date to the date it makes the settlement.

I explained in my provisional decision Mr L has found dealing with the claim over and extended period very difficult. I think UKI could have settled the claim much more quickly. It should pay him £350 in recognition of the distress and inconvenience it caused him because it didn't.

### **My final decision**

My final decision is that I uphold this complaint and direct UKI to settle it in line with what I've said above.

UKI must pay the compensation within 28 days of the date on which we tell it Mr L accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

\* If UK considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr L how much it's taken off. It should also give Mr L a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 7 April 2022.

Paul Phillips  
**Ombudsman**