

The complaint

Mr S complains that Admiral Insurance (Gibraltar) Limited declined his claim and avoided his home insurance policy following a theft.

What happened

Mr S had home insurance with Admiral. In October 2020 he made a claim for some personal possessions after his son was mugged. He initially said the stolen items included £200 cash, a necklace and a bracelet. However Mr S' account of what was taken changed over time and Admiral had concerns about the legitimacy of what he was claiming for.

Due to this, it carried out further investigations, including asking Mr S for proof of the items claimed for and checking his claim history. Based on its findings, it said it was relying on the fraud term to avoid his policy (cancel it as if it never existed) back to the date of the claim. As it said that's when it considered the fraudulent act to have taken place. It said because of this it wouldn't refund any of the premiums paid for the policy during this time.

Mr S didn't think this was fair. He said he had issues with his memory due to a learning difficulty and some medication he takes. And this is why he wasn't able to recall exactly what had been stolen or information about past claims. He made a complaint but Admiral didn't uphold it. So he brought the complaint to this service.

Our investigator considered the issues and recommended the complaint be upheld. He said he didn't think Admiral had done enough to show that Mr S had intentionally exaggerated the claim and therefore it hadn't acted fairly by relying on the fraud term to avoid his policy. So he thought it should reverse its decision to avoid the policy, refund any premiums up until the claim date (plus 8% interest) and remove any markers on internal and external databases that show an avoidance. He also thought it should pay £250 compensation to make up for the distress it had caused.

However he agreed that as Mr S hadn't provided enough evidence to show what the true value of the claim was, it had acted fairly by not paying the claim so it wouldn't ask it to reconsider this decision.

Admiral didn't accept our investigator's outcome. It said it had carried out thorough investigations and thought Mr S had intentionally tried to claim for items that he wasn't entitled to. It asked for the complaint to be reviewed by 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.

Admiral has said it believes Mr S has been dishonest when making the claim. And it has relied on the fraud condition in the policy to decline the claim and avoid the policy.

In cases where fraud has been alleged, our role is not to decide whether fraud has been

committed, but to decide whether the business acted fairly and reasonably when reaching its decision to rely on a fraud term in a policy. We understand that accusing someone of fraud is a serious matter. So it's important that a business has enough weight of evidence to make its decision fair and reasonable.

The fraud condition in Mr S' policy states:

'We will not pay a claim which is in any part fraudulent, false, exaggerated or if you or anyone acting for you makes a claim in a fraudulent or false way, or where we have been given any documents which are false or stolen. Your policy and all other policies to which you are connected through EUI Limited will be cancelled or voided. We will seek to recover any costs that have been incurred and will not return any premium.'

I need to decide whether Admiral has acted fairly by relying on this condition to avoid Mr S' policy.

I've looked at the information provided by Mr S in relation to the claim. This includes emails and letters sent and phone calls where Mr S is asked about the incident. I can see from these that there are a number of discrepancies and inconsistencies in what Mr S claims for. So I understand why Admiral had concerns about the claim.

However to fairly say a claim was fraudulent we'd expect Admiral to have shown that Mr S most likely intentionally gave false or exaggerated information for financial gain. And I am not persuaded it's done enough to show this.

In the call with Mr S about the circumstances he sounds confused and forgetful. He struggles to remember which day of the week the event happened on and he references some medication he takes that causes him problems with memory. However he provides honest information about the fact the watch his son owns isn't a real designer brand, but is instead a fake. And accepts when Admiral explains that this wouldn't be covered under the policy.

Further, Mr S has provided information about his diagnosis with a learning difficulty. As well as proof of the medication he is taking for a chronic pain condition. Both of these can impact his ability to recall information and communicate it clearly. While I appreciate Admiral weren't aware of both of these conditions when the claim was made, Mr S did provide this information as it was investigating the claim, so it should have taken this into account when reaching its decision.

Admiral has accepted that an incident took place. But it thinks Mr S has claimed for items that were above what was stolen. And while I agree Mr S has provided unclear information about what was stolen on the day, I don't agree there's enough evidence to say that it is more likely he did this with the intent to exaggerate the claim. I therefore don't think Admiral's acted fairly by relying on the fraud term in the policy to avoid Mr S' policy.

For that reason, I agree with our investigator that it should refund the policy premiums back to the date of the claim with an additional 8% interest to make up for the time he's been without the funds. It should also remove any markers from internal or external databases that show an avoided policy. And it should pay Mr S £250 compensation to make up for the distress it has caused him by unfairly avoiding the policy.

However I agree that the items Mr S is claiming for as part of the theft remain unclear. And Mr S hasn't done enough to substantiate the claim and prove what he should be indemnified for. So I agree Admiral has reached a fair decision to repudiate the claim, and I won't ask it to reconsider this decision.

My final decision

For the reasons I've given, I uphold Mr S' complaint and direct Admiral Insurance (Gibraltar) Limited to:

- Refund Mr S the policy premiums back to the date of the claim onwards. If there have been any successful claims during this time then Admiral should retain the policy premiums for the relevant policy year.
- Pay 8% interest on the premiums refunded from the date they were paid until it has reimbursed Mr S.
- Pay Mr S £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 July 2023.

Sophie Goodyear
Ombudsman