

## **The complaint**

Mrs M has complained about Tesco Underwriting Limited's ('Tesco's') proposed settlement of a claim she made for jewellery that was stolen during a burglary at her property.

## **What happened**

In March 2022, Mrs M's home was burgled and approximately 70 items of jewellery were stolen. Some of the items had sentimental value for Mrs M, including her mother's engagement and wedding rings, and some were gifts dating back to her 21<sup>st</sup> birthday, for which no receipts are available.

Mrs M contacted Tesco to notify them of her claim for the stolen jewellery. She was told that before the claim could be validated, Mrs M needed to provide proof of ownership of the stolen items, such as photographs, receipts, valuations, bank statements, guarantee cards and so on.

However, as Mrs M didn't have any photographs or receipts to prove her ownership of, or the value of the jewellery, Tesco advised her that it was unable to proceed with her claim.

Mrs M wrote to Tesco in December 2022 to express how disappointed she was with its claim decision. She explained that the more expensive items were given to her by her late parents for her 18<sup>th</sup> and 21<sup>st</sup> birthdays, and by her husband in the early stages of their relationship. The items taken included gifts from family and friends throughout the last forty years. The lack of photographic evidence was explained by the fact that Mrs M and her husband had not gone out very often, so there weren't many opportunities to take photographs. Her letter concluded by saying that Mrs M and her husband felt very hurt that their claim had been turned down due to there being no photographs of the items. Mrs M said she never would have thought about photographing her jewellery.

Mrs M complained to Tesco about the way they'd proposed to settle her claim and received their final response letter in February 2023, not upholding her complaint.

In March 2023, Mrs M obtained some photos of her wearing various items of the jewellery she'd claimed for, from friends and family, and forwarded those to Tesco. She indicated on each photo what the piece of jewellery was, for example, ring, bracelet etc.

On 10 April 2023, Tesco's loss adjuster offered Mrs M £6,574.86 (having deducted the £350 excess) in settlement of her claim for 27 items (from a list of 76) that she had been able to provide photographs of.

Mrs M replied to say that she was declining the offer as her policy offered cover for jewellery up to £15,000. In her letter to Tesco, she said that she was shocked when the loss adjusters valued the jewellery at £29,000 which was far more than what she was insured for. She said at the time that she wasn't expecting to get anything more than she was insured for. When taking out the policy she says she didn't once ever think of the cost of the jewellery going up in price as a lot of the items had sentimental value for her.

In response to Tesco's offer, Mrs M also said the policy wording Tesco had highlighted to her didn't state that photographs of '*all items*' must be provided. She said that she had provided photographs of her wearing the jewellery for almost half of the items, which Mrs M felt was substantial proof.

Tesco's loss adjuster responded by offering revised sum of £6,796.60 (which included an additional £221.74).

Unhappy with the way Tesco had dealt with her claim, Mrs M brought her complaint to this service. She said the policy terms didn't say there had to be photographic evidence of each and every item and she believed no-one would have photographs of them wearing every piece of jewellery they owned.

One of our investigators looked into what had happened and issued a view upholding the complaint. He explained that Tesco's request for photographs of the items was fair. However, he said that where a claim is for a large number of items, it would be rare that this service would consider it fair for an insurer to insist on proof of ownership for everything that was being claimed for. He concluded that Mrs M had been honest with her claim and should be compensated in part for the items where no proof of ownership was obtainable. He concluded that as there was an element of underinsurance, and as only 27 of the 76 items had been evidenced, a fair resolution of the complaint and claim could be achieved by Tesco paying Mrs M half of the balance of the limit of cover, bringing the total settlement of the claim to £10,898.30.

Tesco didn't agree with our investigator and requested an ombudsman's decision on the complaint. In summary, it said that in view of the validation and underinsurance issues, they'd followed guidance from their underwriters, suppliers and this service's technical helpdesk and had done everything it should have on the claim. Tesco says it paid out on what was validated as per the recommendations it received.

### **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.

Having done so, I've decided to uphold this complaint. I will explain why, by first setting out the relevant policy terms and conditions.

Page 21 of the policy terms and conditions, under the heading: '*Contents cover*' specifies:

*'6. Theft or attempted theft'*

On page 8 of the policy terms and conditions, under the heading: '*How we settle your claim*', paragraph 4 says:

*'The most we will pay for any one claim for valuables.....is the maximum claim limit shown in your schedule'.*

'Valuables' is defined on page 6 as:

*'Jewellery, watches, items of gold, silver and any other precious metal, stamp, coin or medal collections, pictures, other works of art and furs.'*

The insurance schedule included the following limit:

*'Maximum for all items of valuables in the home £15,000'.*

On page 7 of the policy terms and conditions, paragraph 6, under the heading: *'Claim conditions – what you need to do'*, it says:

*'6. You must cooperate with us fully in providing information and assistance to investigate and validate your claim. We will require proof of ownership and/or proof of loss (e.g. receipts, valuations, photographs, instruction booklets and guarantee cards). We will only ask you to provide information and assistance that is relevant to your claim'.*

So, the theft of the jewellery was covered by the policy, up to the limit of £15,000, subject to proof of ownership and proof of loss being provided to Tesco.

For any insurance claim it's a requirement for the policyholder to show that they have a valid claim. It is accepted that the burglary occurred (evidenced by the PSNI reference number), so the remaining question is whether Mrs M has shown that she owned the items she claimed for.

Mrs M has provided photographic evidence to satisfy Tesco of her ownership of approximately £6,800 worth of the jewellery she's claimed for. In agreeing to pay that sum to Mrs M, I would initially conclude that Tesco have acted in accordance with the policy terms, in partially settling her claim.

But where an insurer seeks to decline a claim, or part of a claim because it doesn't think the policyholder has provided sufficient proof of ownership or value, I need to decide whether that claim decision is fair in the circumstances of the complaint. Having considered all of Mrs M's circumstances, I don't think Tesco have acted fairly and reasonably in declining to cover any item of jewellery that Mrs M has not been able to provide photographic or other evidence to support her claim. I will explain why.

The general position taken by this service is that while there is a duty on policyholders to provide some form of proof of ownership or purchase (as is also set out in paragraph six of the claim conditions quoted above) there will be circumstances where it isn't fair for insurers to require proof to be provided for every item being claimed for. As our investigator explained, this is because even the most careful policyholder won't usually be able to prove the purchase or ownership of every single item they own.

In Mrs M's case, the jewellery that was stolen had been gifted to her or purchased over a period of more than 40 years. Mrs M also explained that she didn't have a lot of opportunities to be photographed wearing her jewellery, as they didn't often go out.

Photographic evidence was provided of most of the large value items, including a gold ring with three diamonds, and two sapphire and diamond engagement rings. Photographs of a further 24 items of jewellery were also provided. If a consumer has been able to provide proof of ownership for a number of high value items and the items they are claiming for are consistent with the other contents in their property and their overall lifestyle, then we think it is fair, and in line with good industry practice, for the insurer to not insist on proof of ownership being provided for every individual item.

However, Tesco has applied a 'strict burden of proof' to Mrs M's claim on the basis that she hasn't been able to evidence the majority of the items claimed for. I think this is an unreasonable approach to take in this case, given Mrs M's circumstances. Where an insurer has concerns about the items being claimed for not being consistent with the consumer's lifestyle, or where there are any questions of potential dishonesty, it might be justified in

imposing a strict burden of proof. But I don't think that is warranted in Mrs M's case, particularly where there were no suspicious circumstances surrounding the claim.

The expert's validation report, prepared for Tesco, dated 20 April 2022, valued 76 items at a total of £29,884, with a discounted value of £16,200. The report noted they had received no proof of ownership to support the claim and also noted that the total values indicated underinsurance. The assessed values were based on replacement through the personal jewellery service which would replace the items to the same specifications, however it also noted that Mrs M had confirmed that she wasn't looking to replace the jewellery.

In the loss adjuster's report, they confirmed they had no concerns about the theft being genuine nor about the honesty of Mrs M. I also think it reasonable for Mrs M to have amassed a large number of items of jewellery over a period of 40 years, and the items seem to comprise a collection of jewellery that would likely be owned by a person in Mrs M's circumstances. Based on what I've seen, I think it would be reasonable to believe all of the items stolen were of a similar quality or value to the ones Tesco has already accepted.

So, I think Tesco have unfairly settled Mrs M's claim by only including items that she has been able to provide photographic evidence of. However, I do need to bear in mind that Mrs M has not provided evidence for two-thirds of the items she has claimed for. Approximately one-third of the items have been evidenced. But given a number of the remaining items were of lesser value, and in the absence of any circumstances to suggest items have been dishonestly claimed for, I think that Tesco needs to increase its offer to settle the claim.

I note that Tesco's experts made Mrs M aware that she was underinsured, but Tesco didn't seek to apportion her claim nor take retrospective action in relation to the underinsurance. I'm also mindful that two-thirds of the items can't be evidenced, with Mrs M not even being able to provide a description of the item (as was requested by Tesco's agent). So that does make it difficult for a value to be given for the excluded items.

Our investigator suggested an approach to settling this claim and complaint that I think is reasonable in the circumstances. Although the jewellery was valued at approximately £29,000, the limit of cover provided by the policy is £15,000. Tesco agreed to pay £6,796.60 leaving approximately £8,200 of the limit of cover available to meet the claim. Mrs M believes that the £15,000 ought to be paid by Tesco. However, the £15,000 doesn't represent a guaranteed payment; rather, it is the upper limit that Tesco will pay for items that can reasonably be included in the claim.

In this case, our investigator suggested that Tesco increase the settlement offer by half of the remaining limit of indemnity, giving a total settlement sum of £10,898.30. In some circumstances we might suggest that a claim be re-considered by the insurer, however, in this case, there is no new evidence for Tesco to take into account. Having considered all of the circumstances of this complaint, I don't think Tesco's application of a strict burden of proof provides a fair outcome for Mrs M, or a fair settlement of her claim. Given the lack of specific evidence regarding the individual items of jewellery, I think our investigator's approach provides a fair and reasonable way to settle this claim and complaint. I therefore uphold this complaint and require Tesco to settle Mrs M's claim as set out below.

### **Putting things right**

Tesco Underwriting Limited should pay Mrs M £10,898.30 (having already deducted the £350 excess) in settlement of her claim.

I am not awarding 8% interest in this case because I can see that Tesco Underwriting

Limited has worked with Mrs M to try and achieve a resolution of her claim and I don't think, in these circumstances, there was an apparently straightforward pathway to fairly settle the claim.

### **My final decision**

My final decision is that I uphold this complaint and require Tesco Underwriting Limited to pay the award detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 October 2023.

Carolyn Harwood  
**Ombudsman**