

## **The complaint**

Mr and Mrs S complain that Accelerant Insurance Europe SA/NV hasn't paid enough to settle a claim on their home insurance policy.

## **What happened**

Mr and Mrs S hold a home insurance policy with Accelerant. The policy also covers the contents of their home and they have specified items listed on the policy. One of these items is a diamond ring.

Mrs S was out seeing a friend and noticed the diamond in her ring was missing. As she was unable to find it, she claimed on her policy with Accelerant. The claim was reviewed and initially declined. Mr and Mrs S didn't think this was fair and asked Accelerant to reconsider it.

Accelerant reconsidering the claim and accepted it but said Mr and Mrs S had declared the wrong value for the diamond ring. Accelerant said the ring's value had been declared as £21,326, whereas it said it should have been £39,000. Accelerant therefore said it would settle the claim proportionately. It said Mr and Mrs S had paid £230.73 of their premium to cover the ring, whereas they should have paid £421.95. Because of this Accelerant offered 54% of the declared value which amount to £11,665.32.

Mr and Mrs S didn't think this was fair and complained. They thought it would be fairer for Accelerant to pay up to the amount declared on the policy. Accelerant reviewed the complaint but didn't uphold it, so Mr and Mrs S referred their complaint here.

Our investigator reviewed the complaint and found that Accelerant had proportionately settled the claim in relation to the amount of the premium which had been paid to insure the ring. She said as the policy was sold as a whole, and the ring insured under one section of it, it would be fairer to pay proportionately on the whole premium. She therefore recommended it was upheld and asked Accelerant to pay 90.63% of the claim, this amount to £19,327.75. She also recommended Accelerant add 8% interest to the amount it pays, calculated from the date the claim had been paid until the date of settlement.

Accelerant didn't agree. It said if it applied this approach to other cases where the amount insured hadn't been accurately declared, then it would mean other customers only have part of their claim paid. Whereas, under the approach Accelerant took it meant they would have 100% of the claim paid if the underinsurance was on a different section of the policy.

As Accelerant didn't agree the complaint has come to me to decide.

## **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.

The relevant law in cases like this is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

I don't think CIDRA strictly applies here though, as Mr and Mrs S have given an opinion rather than a statement of fact. However, I think it's fair and reasonable to apply the principles of CIDRA. So, when a policy is purchased and a consumer gives an opinion on a question asked by an insurer, I think it's fair and reasonable for an insurer to see whether that opinion is accurate to the best of a reasonable consumer's knowledge.

And, if a consumer fails to do this, the insurer could look at what it would have done if it had known the correct information when the policy was purchased. For an insurer to decline a claim or proportionately settle it. I believe that it is fair and reasonable for the insurer to show it would have offered the policy on different terms, or not at all, if the consumer hadn't made the misrepresentation.

Accelerant thinks Mr and Mrs S failed to take reasonable care not to make a misrepresentation when they purchased the policy online. It said this is because the value of the ring was declared to be £21,326, whereas it should have been £39,000.

I've looked at policy documents sent to Mr and Mrs S and they show the value of the ring as, £21,326. While Accelerant hasn't provided the sales channel, Mr and Mrs S don't dispute that this value was incorrectly declared. I'm also satisfied that it was clear Accelerant wanted to know the value of the ring. I've therefore looked to see if Accelerant has shown it would have done something differently if it had known the correct value.

Accelerant has provided evidence which shows if Mr and Mrs S had declared the correct value, then it would have charged £191.22 more than it did. This means I'm satisfied that if Mr and Mrs S's had declared the correct value that Accelerant would have charged a higher premium.

Accelerant has agreed to pay the claim but settle it proportionately. This is in line with the remedies available in CIDRA for a qualifying misrepresentation. However, I'm not persuaded Accelerant has calculated it in a fair and reasonable way.

I say this as Accelerant has calculated the proportionate settlement in relation to the amount it charged to insure the diamond ring. However, Mr and Mrs S were provided with a total premium for the whole policy, not separate premiums, and policies, for different sections.

This means Accelerant has paid 54% of the value declared. However, Mr and Mrs S paid £1,849.98 for their home insurance policy. This means if the additional £191.22 is added to what they paid, they've actually paid 90.63% of what they should have. I'm therefore satisfied in this particular case it would be fair and reasonable to base the calculation on the whole premium, not just the amount charged for that particular section.

I understand Accelerant has said this would mean on other cases customers would lose out when the misrepresentation is on a section which doesn't relate to their claim. I've considered this and I'm not persuaded it means Accelerant needs to treat other customers less favourable than it intends, just that in this particular case I'm not satisfied it's been calculated is fair and reasonable. As it means Mr and Mrs S would receive £11,665.32 rather than 90.63% of the declared value which equates to £19,327.75.

So, to be clear, I'm not persuaded Accelerant has calculated the proportionate settlement fairly in this case. It therefore needs to pay Mr and Mrs S £19,327.75 to settle their claim,

minus what it has already paid and any applicable policy excesses. It should also add 8% simple interest per year to the additional amount it pays to compensate Mr and Mrs S for not having the money. This should be calculated from the date of the interim payment until the date of settlement.

### **My final decision**

For the reasons explained above, my final decision is to uphold this complaint. I require Accelerant Insurance Europe SA/NV to pay Mr and Mrs S £19,327.75 to settle the claim for the diamond ring, minus what it has already paid and applicable policy excess. It should also add 8% simple interest per year to the additional amount it pays, calculated from the date of the interim payment until the date of settlement.

If Accelerant Insurance Europe SA/NV considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs S how much it's taken off. It should also give Mr and Mrs S a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 17 November 2023.

Alex Newman  
**Ombudsman**