

The complaint

Mr S has complained about the settlement offered by AA Underwriting Insurance Company Limited ('AA') relating to damage to contents under his home insurance policy, following a fire at his home. For the avoidance of doubt, the term 'AA' includes its agents, representatives, and contractors in this decision notice.

What happened

Unfortunately, Mr S's home was damaged by fire in September 2022. The fire also destroyed and damaged personal items in the home. As Mr S was insured with AA at the relevant time, he submitted a claim to AA which was accepted in principle and processed. Mr S submitted a list of items which had been destroyed or damaged. AA only paid a proportion of the amount for which Mr S claimed. Mr S was unhappy that AA said that he had been underinsured and that it had only offered Mr S payment of a proportion of the claim. Mr S also complained about the delay in AA returning his contents and about a lack of communication generally. He also felt that some of the contents had been damaged whilst in AA's custody.

AA considered that it had processed Mr S's claim in a fair and reasonable manner, and it maintained its stance that Mr S had been underinsured when he purchased the policy. AA accepted that there had been an avoidable delay of around two weeks during the process, and it had offered compensation of £100 to Mr S in this regard. It denied damaging Mr S's possessions. In the circumstances, Mr S referred his complaint to this service.

The relevant investigator upheld Mr S's complaint. He said that as AA hadn't provided evidence to support its view that Mr S was underinsured or what it would have done differently if Mr S had declared a higher sum. It was therefore his view that AA should disregard the relevant 'average' clause in the policy and reassess Mr S's claim. He also considered that AA should pay Mr S £350 compensation in recognition of the frustration and inconvenience caused by its poor service.

As AA hadn't responded within the time scale provided by the investigator, the matter was then referred to me to make a final decision in my role as Ombudsman. AA subsequently responded to the investigator some two weeks after it had been due to respond and provided additional information to the service. In January 2024, I issued a provisional decision for this complaint and explained why I was not minded to uphold Mr S's complaint as follows.

'The key issues for me to determine are firstly whether AA applied the terms and conditions of the policy in a fair and reasonable manner by applying an 'average' in settling the claim. On a provisional basis, I've concluded that AA did act in a fair and reasonable manner in this respect. Secondly, I must determine whether AA provided a fair and reasonable service in terms of return of Mr S's personal items, storage, and general communication. I've concluded that AA didn't treat Mr S in a fair and reasonable manner in all respects as to certain elements of this second part of the complaint. I will now explain the reasoning for this provisional decision.'

I will firstly turn to Mr S's submissions regarding these issues. In addition to the details of the complaint as summarised above, Mr S said that he'd provided evidence to show that AA had over-valued certain items of clothing and had guessed the values in certain instances. Mr S said that AA's agents had admitted that they didn't know how to value some clothing. He also said that in one example, the items came as one and not as a number of items as per a spreadsheet prepared on behalf of AA. As an example, Mr S said that one item of clothing had been valued at £3,200 whereas the cost as per the actual invoice he'd supplied was about £260. He said this; 'shows how inaccurate your valuations are.' He said he'd proved that the items were over-valued by 216%. Mr S thought that AA's decision was ridiculous, particularly as he'd submitted actual receipts. Mr S also claimed that his mattress was lost for three weeks and that it had also been damaged whilst in AA's care.

I now turn to what AA has said about this matter. In essence, it stated that Mr S had been underinsured when he took out his policy, as the information as to loss didn't match the cover purchased. AA referred to the wording of the relevant policy terms and conditions and stated that the insured values shown on Mr S's 'statement of insurance' represented less than 100% of the full replacement cost of the contents of his home and that it was therefore entitled to proportionately reduce the amount of the pay-out under the policy. It stated that it was the policy holder's responsibility to ensure that the policy cover was adequate. It noted that Mr S was to receive a total payment of nearly £15,000 representing 41% of the total claim for contents of just over £36,000 and it made an interim payment of £10,000. It said that the policy would replace items on a like for like basis, and not based on the purchase price as new. As to any damage caused to certain items when in its care, this was refuted by AA's agents which it said had provided photos to show how items were stored.

The starting point for my provisional decision is the wording of the policy which forms the contractual basis of the relationship between customer and insurer. In this case, the terms and conditions of the relevant policy, state as follows under the heading; 'General Conditions Relating to Claims': - 'If the insured value shown on your Statement of Insurance represents less than 100% of the full replacement cost of the contents of your home, we will reduce the amount claimed in proportion with the underinsurance. For example, if the insured value of your contents shown on your Statement of Insurance represents 75% of the amount needed to replace all the contents, we will only pay 75% of your claim. In the Statement of Fact relating to Mr S's insurance, it states that; 'the insured value (total value of your entire contents)' is stated to be 'up to £50,000'.

In this context, I must also consider the provisions of the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'), as AA maintains that Mr S misrepresented the contents value when taking out the policy. This service has a settled approach to complaints when CIDRA applies. The Act says that it's the duty of the consumer to take reasonable care not to make a misrepresentation to the insurer when purchasing a policy. If a deliberate or reckless misrepresentation has been made, an insurer may avoid the insurance contract, refuse claims, and retain premiums. If a consumer fails to take care, the insurer still has remedies it can rely upon, provided it's a 'qualifying misrepresentation.' That is, where the insurer wouldn't have offered the policy if the consumer hadn't made the misrepresentation.

Whilst it's extremely disappointing that AA didn't adhere to the time scales for response provided by the service's investigator on more than one occasion, it did eventually supply cogent evidence of its underwriting criteria. In this respect, I have now studied the relevant section of AA's criteria. From this, I'm satisfied that AA would normally have declined insurance in the light of any under-insurance and so I provisionally conclude that there had been a qualifying misrepresentation, and it would have been reasonable for AA to apply certain remedies set out in CIDRA.

I appreciate that a customer may take a general and global approach when estimating the

value of their home contents, however they must take reasonable care in doing so. They also have a responsibility to check that they have provided correct details and checked the relevant 'Statement of Insurance' as well as all other important insurance documents when buying insurance. I have now seen a copy of the agent's detailed and itemised report with valuations which AA states has evidenced the 'under-insurance.' In the circumstances and on a provisional basis, whilst Mr S may well have made a genuine mistake in accepting a contents value of £50,000 when he bought the policy, I don't think it was likely that this was an accurate reflection of the true value of Mr S's personal items and it's probable that it was much higher. In the circumstances, I consider that he hadn't taken sufficient care over the details when he bought the policy.

Whilst the insurer's usual remedies would normally have applied under CIDRA and it may have declined cover, I provisionally conclude that it had fairly and reasonably opted to continue to process the claim and decided instead to apply the 'average' clause as referenced above and to settle Mr S's claim on a proportionate basis. I therefore can't say that the AA claims team applied the wording of the policy incorrectly.

As to the 41% percentage settlement which it had offered to Mr S, again on the balance of probabilities, I can't say that AA calculated this percentage in an unfair or unreasonable manner. I don't doubt that Mr S has a valid point about the specific items of clothing he mentioned, and that AA's agent had candidly admitted that it had no expertise in valuing that particular item of clothing. However, I also have no reason to doubt the agent's expertise in relation to the majority of items on a very long and detailed schedule of items. In the circumstances, and again on a provisional basis, I can't say that AA has acted in an unfair or unreasonable manner regarding this aspect of Mr S's claim.

I note that AA accepted there was an avoidable delay of around two weeks in relation to certain aspects of its service as well as certain communication failures. The poor service left Mr S frustrated, however I'm satisfied that the compensation of £100 already offered by AA to Mr S to recognise this administrative failure is sufficient in all the circumstances. In summary, as I've provisionally concluded that AA hadn't made an incorrect decision with regard to settlement of the contents claim, I can't say that an award of £350 compensation for the service should be payable in this respect.

As to Mr S allegation that AA's supplier damaged some of his personal possession whilst they were being stored, I've seen insufficient evidence of any such damage having been caused at that time to be able to uphold this aspect of his complaint.

Whilst I appreciate that this provisional decision will come as a great disappointment to Mr S, I'm not persuaded on the balance of probabilities that AA has acted in an unfair or unreasonable manner in the way it has proposed to settle Mr S's claim regarding contents of the property, following this most unfortunate incident in September 2022. I also consider that the compensation of £100 which has already been offered by AA in relation to certain service delays to be at an appropriate level.'

In my provisional decision, I asked both Mr S and AA if they had any further comments or evidence which they would like me to consider before I made a final decision.

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.

AA hasn't presented any further comments or evidence for consideration. However, Mr S has provided some detailed submissions in response which I will summarise below.

Firstly, Mr S said that he'd further investigated the data submitted by AA regarding the contents of the property. He provided a list of seven items which he said, *'do not belong to me or my family.'* He said that the list wasn't exhaustive and was just a *'snapshot to illustrate a point that there have been items that are not my possessions...listed in the claim.'*

Secondly, Mr S also noted that there were many items with generic descriptions, and he said that neither party could confidently say these items should be assigned to this claim. It said that this was significant because there were, *'919 no branded items with generic descriptions valued at £22.8k which materially effects the potential outcome of the case.'*

Thirdly, Mr S had tried to reconcile AA's records but said there were several data quality issues. For example, he said that there was conflicting information as to whether there were 24 or 26 textile bags from one bedroom. He said there was no description of what was in these textile bags which made it hard to reconcile reports and confirm the accuracy of the data. Mr S also said that there were numerous record sheets which hadn't been signed by either party. He hadn't received detailed sheets for the returned clothing, to reconcile them against the main valuation list, to confirm that he owned all the clothing on the list. He felt that AA should have detailed all clothing taken and had the sheets signed by him to avoid discrepancies down the line. He said that instead, *'they dumped all clothes in bags to avoid doing a proper job. Professional companies should not be taking short cuts to save time.'*

Finally, Mr S said that all the above points, and the issues he'd raised previously (as recorded in the provisional decision), *'cast serious doubts over the accuracy and validity of the data which is hugely relevant'*. He said this was fundamental to the claim and he said that the applied percentage of 41% wasn't a true reflection of the position and this needed to be reviewed again. He said that the provisional decision accepted that estimates were used rather than the factual information he'd provided, the value of some items wasn't known, and some items had been incorrectly grouped, yet no adjustment to the 41% had been applied.

I've carefully considered all of Mr S's points which he's put forward in a clear and eloquent manner. Nevertheless, these points don't alter my overall conclusion that AA has generally handled the matter in a fair and reasonable manner and has applied a fair and reasonable percentage reduction in its offer to settle Mr S's claim.

I now address Mr S's individual points as follows. Firstly, I refer to the items which Mr S said neither he nor his family owned, and I note these had an AA assigned replacement value of just under £340. The detailed textiles list refers to a very large number of items (just under 2,600 items) which were removed in over 90 bags. I consider it more likely than not that the snapshot of seven items provided by Mr S were items that had come from his property, and I'm satisfied that it would have been reasonable for AA to have assumed that they were owned by Mr S and his family and therefore taken into account for valuation purposes.

As to the second issue, I take Mr S's point that as there were many items with generic descriptions, neither party could be confident regarding these items. Nevertheless, the insurer and its agents have a professional duty in conducting valuations and again, on the balance of probabilities, I consider that the non-branded items did indeed exist and were valued by AA in accordance with the detailed list.

Turning to the third issue as to data quality, I agree that there was a discrepancy regarding the number of bags of textiles that came from one bedroom, however the conflicting information appeared to have been signed off by both parties at the time. I also take the point that the lack of description as to what was in these textile bags, lack of signatures on many record sheets, and lack of details for returned clothing may have caused difficulties. However, the removal and recording of such a large number of clothing items as well as furniture and personal possessions would have been a major exercise. In all the

circumstances, whilst I agree that AA's data recording didn't demonstrate best practice, I don't consider that this renders the exercise unfair or unreasonable.

Finally, I'm satisfied that AA acted in a fair and reasonable manner under the provisions of CIDRA and the insurance policy, as it didn't proceed to cancel Mr S's policy and instead applied a percentage reduction to its offer of settlement. Also, insurers aren't expected to reimburse clothing items as new and I appreciate that AA has provided approximate valuations, some of which are likely to be generous, and others likely to be under-valuations. In the circumstances, I consider that the limited specific examples which Mr S thought were incorrect, are unlikely to make a difference to the percentage reduction applied by AA. I'm satisfied in all the circumstances that 41% was a fair and reasonable percentage reduction.

In conclusion, whilst I note and understand the further submissions made by Mr S, these don't alter the final outcome. In all the circumstances, I conclude that the provisional decision provides a fair and reasonable outcome to the matter.

My final decision

For the reasons given above, I don't intend to uphold Mr S's complaint and I don't require AA Underwriting Insurance Company Limited to do any more in response to his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 March 2024.

Claire Jones
Ombudsman