

The complaint

Mr N is unhappy that after a delay looking into his loss of jewellery claim, Liverpool Victoria Insurance Company Limited (LV) cancelled his policy and refused to pay his claim.

What happened

The background to this complaint is well-known to both parties. So, I've set out a summary of what I think are the key events.

Mr N was gifted a necklace. He had it valued and took out a new contents insurance policy, specifying the necklace at a value of over £19,000. Three weeks later he claimed under the policy for the loss of his necklace which he'd left behind following a night in a hotel.

LV asked for evidence of the loss in order to validate the claim. Mr N confirmed he'd reported the loss to the police; he had a jeweller's valuation from the month before, and he provided photos of himself wearing the necklace. LV arranged for a jewellery valuation based on the evidence and asked the police for a copy of the report.

After several months of chasing progress on the police report, LV decided to continue looking into the claim without it. At this point, LV told Mr N it wouldn't be paying his claim because his policy premium hadn't been paid. When Mr N challenged this, LV said the premium had been refunded following a chargeback request. Mr N explained that he had given the money to his mother who had paid the premium from her bank account. Therefore, he had no knowledge of any chargeback request. He provided evidence of the relevant transactions.

Mr N complained because LV didn't tell him by phone when he made his claim that the policy had been cancelled. Instead, the claim had been delayed while LV looked to validate it before noticing the non-payment.

LV told Mr N it had asked for payment on two occasions and given notice that the policy would be cancelled unless the premium was paid by 29 September. LV said it cancelled the policy initially due to non-payment. However, once it noted that there had been a chargeback, it said that meant nothing had ever been paid for the policy. LV told Mr N it considered that he anticipated settlement on a policy he hadn't paid for, and it relied on the cancellation section of the policy booklet which states:

Our rights to cancel your insurance

We'll cancel your insurance by giving 7 days notice if:-

- we find ... any attempt to gain an advantage under this policy to which you're not entitled,*

If you've just taken out the policy or renewed and haven't paid any premiums, we'll cancel your insurance back to the start/renewal date.

4 Misrepresentation, fraud and financial crime

If you or anyone representing you:

- fail to let us know about changes to the details we have about you or your cover;*
- deliberately misleads us to obtain cover, a cheaper premium or more favourable terms;*

we may:

- cancel or avoid your policy (treat it as if it never existed)*

LV said that the chargeback was a deliberate and purposeful act, therefore there was no valid policy in force under which it could consider the claim.

Mr N was unhappy with LV's response. He said it was his mother's bank account so he couldn't have requested the chargeback. He provided evidence of his payment into his mother's account and her payment to LV for the full premium amount, followed by the return as a result of the chargeback request. Mr N said he had no knowledge of the premium being returned to his mother's account prior to LV informing him.

LV looked into the complaint and issued a final response to Mr N. It said it had sent emails to his correct email address requesting payment and giving notice of cancellation if payment was not made by the deadline given. A further email was issued saying the policy had been cancelled, but giving Mr N a further seven days to pay. LV said that because Mr N didn't respond or pay, it cancelled the policy. Therefore, LV said it would not be considering Mr N's claim as his policy had been cancelled from the start.

Mr N brought his complaint to this service. One of our investigators looked into his complaint but she didn't think it was one we should uphold. She said LV had relied on the policy terms and conditions to cancel the policy, and she thought it was fair in the circumstances.

Mr N didn't agree, so the complaint was passed 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.

Having done so, I've decided not to uphold Mr N's complaint and I'll explain why.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. My role is to look at the evidence and decide whether LV fairly and reasonably declined Mr N's claim for the reasons it gave. I won't comment on every piece of evidence, but I'll refer to anything which I've relied upon to reach my decision.

Claim delay

To begin with, LV looked into Mr N's claim and sought proof of ownership and loss. I haven't seen anything in the evidence to suggest that LV told Mr N it would settle his claim. While LV had some evidence directly from Mr N, I note that the delay in progressing the claim was due to the delay in receipt of the police report. I don't think it's unreasonable that LV wanted to see the report before progressing the claim, and the terms and conditions of the policy provide for this. It's worth noting that LV acknowledged the delay, so it decided to go ahead with the evidence it had.

Based on this evidence, I can't fairly say that LV caused the delay, or that it told Mr N it would definitely pay the claim.

Claim handling and cancellation

Once LV looked into the claim, it found that the policy premium hadn't been paid. The policy states:

7. Cancellation

Our rights to cancel your insurance

We'll cancel your insurance by giving you 7 days' notice if:

- *you don't pay the premium or a monthly payment when we've asked for the money by a certain date;*

We'll send you a letter or email letting you know the cancellation date and the reason why we're cancelling your insurance. If you've just taken out the policy or renewed and haven't paid any premiums, we'll cancel your insurance back to the start/renewal date.

The policy allows for LV to decline the claim and cancel the policy in the event of non-payment, which it did, and it confirmed this to Mr N. Therefore, I'm satisfied that LV cancelled the policy in line with the terms and conditions.

Was it fair to cancel in the circumstances?

LV noted the non-payment while trying to validate the claim. Mr N was unhappy that it didn't tell him sooner about the non-payment.

The evidence shows that Mr N's premium was refunded to the account from which it was paid shortly after he bought the policy. LV emailed Mr N on three occasions asking for the payment and giving notification that the policy would be cancelled if he didn't pay it. I understand that Mr N thought LV could've called him. While that may have been an option, the evidence shows that LV emailed Mr N at the address he used, and to which it issued other documents which he clearly received. I don't find that LV did anything wrong by emailing him to request payment, so it follows that it wasn't unfair to cancel the policy when Mr N didn't make payment by the deadline given.

Mr N said LV could've simply taken the payment from his claim settlement. I don't agree. At the point of assessing the claim, Mr N didn't have a valid policy in place because his premium was unpaid. I wouldn't expect LV to assess a claim and agree to settle it without first having received the policy premium. Therefore, I don't find that LV did anything wrong by not accepting the claim.

Date of cancellation

Mr N said LV cancelled the policy from 29 September, yet his claim was made in July. I understand this to mean he thinks LV should've accepted his claim because it hadn't become aware that the premium was unpaid. When LV told Mr N that the policy would cease to exist from 29 September, I don't think it was intending to provide three months of cover for free. It simply meant that he had until then to pay and bring the policy up to date, or the policy would be cancelled.

I see no reason why LV should settle a claim just because it was made before the payment deadline, which subsequently passed without Mr N making payment.

I'm satisfied that the deadline for payment was just that, and I don't find that LV unfairly cancelled the policy due to non-payment.

Chargeback

Mr N said he clearly intended to pay because the evidence shows his payment to his mother, followed by her payment to LV. I don't think that's disputed. The issue, though, is that he didn't pay LV for the policy because the payment was returned to his mother's account at her request. There's nothing wrong with Mr N making payment via his mother and her bank account, but when she requested a chargeback it became a separate matter for Mr N and his mother to resolve. The policy was a contract between Mr N and LV, so he was responsible for ensuring the premium was paid. LV reasonably notified him by email that it hadn't been paid, and gave notice before cancelling the policy. It was Mr N's responsibility to read the email communication from LV and ensure the policy was paid up to date.

Conclusion

In summary, I'm satisfied that LV fairly and reasonably cancelled Mr N's policy from the start due to non-payment, meaning there was no policy in place under which it could assess his claim. While the evidence shows Mr N paid his premium via his mother's account, his mother was not a party to the contract with LV. Therefore, when the payment was returned to her, Mr N remained liable for paying the policy premium. I'm satisfied that LV notified Mr N of the non-payment using his preferred communication method, and that it did nothing wrong by cancelling the policy once the payment deadline passed.

For these reasons, I'm satisfied that LV handled the claim and policy cancellation fairly and reasonably, and in line with the policy terms and conditions.

My final decision

For the reasons I've given here, my final decision is that I don't uphold Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 6 September 2024.

Debra Vaughan

Ombudsman