

## The complaint

Mr and Mrs N have complained about Aviva Insurance Limited's (Aviva's) decision to decline a claim they made for theft of personal items that were taken from their car.

## What happened

I issued a provisional decision on 26 April 2024 explaining why I was not intending to uphold the complaint. This is what I said in the provisional decision:

### What happened

*Mr and Mrs N were returning from holiday when they stopped their car to take their dog for a walk.*

*They'd placed personal possessions that were too large for the glove compartment in a covered bag which was tucked out of sight under the rear passenger footwell and covered with other items. Mr and Mrs N told us that they weren't able to store the belongings in the boot, because it was uncovered to enable their dog to travel in the car. The windows of the car had privacy glass preventing the items from being seen from outside of the car. While they were out walking their dog, the car was broken into and the police were later contacted and a crime number issued. They also had placed an overnight bag on the back seat of the car, which was uncovered, however that wasn't taken from the car.*

*Mr and Mrs N suspected that they may have been watched when putting the bag under the seat by someone in the carpark as only the rear passenger window had been smashed and only the jute bag, handbag and contents were stolen.*

*Aviva declined Mr and Mrs N's claim on the basis that the policy didn't provide cover for 'Theft of personal belongings from an unattended vehicle unless the property was inside a concealed luggage compartment or closed glove compartment of a locked vehicle which has been broken into by using force and violence'.*

*Unhappy with its claim decision, Mr and Mrs N complained to Aviva and received its final response not upholding their complaint on 28 February 2023.*

*Our investigator looked into what had happened and issued his view upholding the complaint on 6 October 2023. He concluded that Mr and Mrs N had no other option than to place their belongings where they did. He concluded that the items couldn't have been seen from outside of the car, and Mr and Mrs N couldn't have done any more to hide their unattended possessions.*

*Our investigator directed Aviva to reconsider the claim (but said it couldn't decline it on the terms and conditions it had initially relied on). He also said that Aviva should pay Mr and Mrs N £100 compensation for the upset and stress they'd been caused by its decision to unfairly decline the claim.*

*Mr and Mrs N accepted our investigator's view, however Aviva did not. It disagreed with our investigator's statement that it was his responsibility to look beyond the terms of the policy, because in its view the policy terms are binding. Aviva said that if the claim does not fall within the policy cover, it is clearly excluded. In their opinion, the car did have a concealed boot, but the insured had removed the boot concealment cover. If that hadn't been removed, and the bag had been placed in the concealed boot, Aviva says the claim would have been covered.*

*Aviva requested an ombudsman's decision on the complaint.*

*What I've provisionally 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'm intending to reach a different conclusion on this complaint to that reached by our investigator. I will explain why, by first making reference to the relevant policy terms.*

*The policy schedule shows that cover for theft from unattended vehicles up to the limit of £1,500 is provided by the policy. This is further detailed on page 23 of the policy terms and conditions, which set out the cover provided in relation to personal belongings. It says, under the heading: 'What is covered?', 'Loss of or damage to personal belongings (as detailed on your schedule) which happens at your home or anywhere else in the world.'*

*However, under the heading: 'What's not covered?' the terms state: 'Theft of personal belongings from an unattended vehicle unless the property was inside a concealed luggage compartment or closed glove compartment of a locked vehicle which has been broken into by using force and violence'.*

*Our investigator considered that it wasn't fair for Aviva to decline the claim because there had been forced entry to the car, and the car had privacy glass, preventing the items from being seen from the outside. He concluded that Mr and Mrs N couldn't have done any more to hide their unattended possessions.*

*However, Mr and Mrs N did have the option of taking their possessions with them when they went for a walk with their dog. But instead, they chose to leave them in the car under a seat. I also note that while they were doing so, they noticed they were being overlooked by a person in the carpark.*

*The starting point for considering Aviva's claim decision is the policy terms and conditions, which I've set out above. These terms cover what Aviva would and wouldn't cover under the policy. When talking specifically about theft from a vehicle, the policy terms were clear, the property would need to be inside a concealed luggage compartment or closed glove compartment.*

*I've considered Mr and Mrs N's explanation that the bag was too big to fit inside the glove compartment, and they'd removed the cover from the boot so their dog could travel in the car with them. However, the stolen items weren't stored in one of the places specified by the policy. And I consider their policy was clear enough that Aviva wouldn't cover thefts in those circumstances.*

*I appreciate that Mr and Mrs N find themselves left without the belongings that were stolen and I sympathise with them because it is distressing to be the victim of theft.*

I concluded by saying that taking everything into account, I'm currently of the view that it was fair for Aviva to decline Mr and Mrs N's claim in this case. I explained that I was therefore not intending to uphold this complaint.

I asked the parties to provide any final information or evidence they'd like me to consider by 10 May 2024, however, neither party provided a response to the provisional 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.

As neither party have provided any new evidence or arguments for me to consider, I see no reason to depart from the conclusions set out in the provisional decision included above. I therefore don't uphold this complaint.

### **My final decision**

For the reasons set out in this final decision (including the provisional decision detailed above) my final decision is that I do not uphold this complaint.

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

Carolyn Harwood  
**Ombudsman**