

## **The complaint**

Mr K has complained about his property insurer Aviva Insurance Limited because it declined his claim for a theft.

## **What happened**

Mr K came home in February 2023 to find a window ajar and his bedroom in disarray. He thought some items such as clothes and old mobile phones were missing, but didn't think it was anything worth reporting. However, in March 2023 Mr K noticed some valuable jewellery and watches were missing, so he called Aviva.

In the call with Aviva Mr K explained that he has some mental health issues, including memory loss. He later explained that was why he hadn't realised straight away that the jewellery and watches were missing – they were hidden, whereas the items he noticed as having been taken had been left in plain sight when he went out. He said the jewellery, including watches, had been bought many years ago, so he had no receipts or any proof of purchase for them.

Aviva appointed an investigator to gather more detail and consider the claim. Aviva subsequently issued three final responses to Mr K declining the claim. In May 2023 it said Mr K had been asked for certain details to substantiate his claim, which he had not provided. It said without that substantiation it was declining the claim. In November 2023, Aviva said it had reviewed matters and as Mr K had left a window open, he'd breached a policy condition to prevent loss, so it was declining the claim. In March 2024 Aviva said the November letter had been issued in error. Aviva reverted to a position of having "not received enough evidence to allow the claim to proceed".

In between Aviva's final responses Mr K had provided some evidence of ownership of the mobile phones he'd reported as stolen. He'd also complained to the Financial Ombudsman Service. Our Investigator, having reviewed everything, felt Aviva's continued change in stance was unfair. He also felt the decline, overall, had been unfair and unreasonable. He felt Aviva needed to do a number of things to put matters right. Including paying Mr K £150 compensation for upset caused.

Aviva did not reply to our Investigator's view. So the complaint was referred for an Ombudsman's 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.

Having done so I agree with our Investigator. I think Aviva has handled this poorly and let down Mr K, a vulnerable policyholder.

Aviva knew at the outset that Mr K was a vulnerable policyholder, and yet it never seems to have taken this into account when dealing with him. For example, Aviva knew Mr K suffered with poor memory and he also told Aviva's investigators that he wasn't good with technology – such that he couldn't upload photos of the window or his bedroom. Yet Aviva did nothing to assist with this – such as send someone to view the property. Rather it declined the claim on the basis he had not provided the substantiation requested. That was unfair.

Aviva later seemed to accept that the claim had occurred as reported – entry gained via a window – because it declined the claim on the basis of a prevention of loss condition. Whilst Aviva has since tried to say that was a mistake, I'm not persuaded, given a full formal final response was issued in that respect, that is fair. For example, I've seen no good reason or explanation for how a 'mistake' like that could be made if Aviva was actually so sure that Mr K had still not substantiated that a loss had occurred. I also bear in mind that it took some months, and only after receipt of further views from our Investigator, for Aviva to decide that a 'mistake' occurred. I'm not persuaded it's fair to allow Aviva to rely on such a defence here.

I note that when Aviva 'corrected' its mistake it's reason for declining the claim was somewhat vague. It didn't specify what its concerns were or what evidence was required or missing.

I bear in mind that, in the interim, Mr K had been able to find some evidence of ownership for the mobile phones reported as stolen. Further, that some images of the 'window', as well as of Mr K's bedroom, had been obtained. I appreciate that Mr K did not report the loss to the police, but he's explained why that was – the police hadn't been helpful previously regarding personal robberies/high value incidents and he initially thought this loss, from his home whilst he was out, was low value. I can understand Mr K's thinking in this respect. And Aviva hasn't shown that his reporting the incident would have changed anything.

I can't see that, at any time, Aviva has considered this Service's approach to theft claims made where there is an issue of proof of ownership for items claimed for. I can see that our Investigator set this out in some detail in his views, there's nothing I can reasonably add to what he said, so I'll adopt what he said here as part of my findings of this decision. Our Investigator said:

*"If a consumer has been able to provide proof of ownership for a number of high value items, and the items they're claiming for are consistent with the other contents in their property and their overall lifestyle then the insurer may not insist on proof of ownership being provided for every individual item, even if these are high value. We think this is fair and in line with good industry practice. In this case my understanding is that Mr K hasn't been able to provide any proof of ownership for the higher value items such as the jewellery and watches.*

*In this case from what I can see Mr K has only been able to provide reasonable evidence of proof of ownership for some of his mobile phones. He's provided photos of at least one box, and he's provided a purchase history from eBay showing purchases of Motorola phones which I understand at least two of which were stolen during the theft.*

*Where a consumer has been unable to evidence most of the items they've claimed for, our service won't typically be able to ask a business to pay for the higher value items that haven't been evidenced. But there are possibly lower value items that haven't been evidenced that it might be fair for Aviva to still cover in this claim. For example, the clothing items that were stolen.*

*Typically, we'd expect an insurer to send a form to the consumer or gain a list from the consumer of all the items stolen and their value. I've not seen any evidence to show that was done in this case. And I think Aviva need to do that and then reconsider what it would be fair*

*for them to cover. And we wouldn't expect a policyholder to be able to evidence proof of ownership for every item, especially when things like clothes were purchased from a market and you wouldn't expect someone to keep receipts for t-shirts and jeans and things like that."*

So whilst Aviva acted unfairly and unreasonably to decline the claim as a whole, I think it would be unfair to require Aviva to settle it in full. Mr K's inability to provide any proof that he owned expensive jewellery and watches reasonably means Aviva can decline this element of the claim. If Mr K should have any proof he had these items – such as some old photos perhaps – I'd expect Aviva to review matters. At this stage though, I don't intend to make Aviva settle the claim for stolen jewellery and watches.

Mr K being unable to substantiate these items doesn't reasonably mean that his claim for other lost items should fail or not be considered further. Mr K has evidenced ownership of two mobile phones which he reported as stolen. I think Aviva should settle for these items.

I know Mr K reported stolen clothes too. As referenced in the quote above, I think Aviva should assist Mr K with creating a list of the lost items, working with him to ensure his memory issues don't prevent its further reasonable consideration of his claim. Aviva can then consider its liability for the stolen items, but in the light of the fact that a theft did most likely occur for which it is liable for under the policy. In carrying out that consideration, Aviva will have to apply this Service's approach to this type of situation as set out above – Mr K not being able to provide a receipt, for example, for clothes bought from a market, should not prevent it from making a reasonable settlement.

I can see that Mr K has been upset by Aviva's handling of this claim. I think he felt as though it wasn't supporting him even though he'd told it of his health issues. I think Aviva treated him unfairly by declining the claim and then by further changing its stance in respect of, or by making 'mistakes' about the reason for, its decline, which caused him further worry. I'm satisfied it should pay Mr K £150 compensation.

As I've found that Aviva failed Mr K, I've set out below, in bullet points, what I think it needs to do now to put matters right. To assist Mr K, I'll explain that each bullet point is a separate action for Aviva to complete.

The next thing for Mr K to do is to tell our Investigator if he accepts my decision. If he wants to accept it, he must do so within the timeframe set – and in the circumstances, I've given Mr K two months to do so (a little longer than normal).

If Mr K does accept the decision within the deadline, Aviva will be bound to comply with what I've said it must do. So Aviva should start to action each of the bullet points set out below. Mr K might first receive from Aviva the £150 I've awarded, but further actions, and ultimately settlements from Aviva, should follow, such as contact from it about creating a list and payment from it for the mobile phones.

### **Putting things right**

I require Aviva to:

- Pay the portion of the claim for the theft of the mobile phones that Mr K has evidenced ownership of.
- Reconsider and handle the remainder of the claim in line with the remaining terms and conditions:

- Starting by getting a list from Mr K specifying every single individual item he is claiming for and the value of every item, as noted above Aviva should assist Mr K with this process.
  - Then Aviva should decide what items it'll cover under the policy bearing in mind our Service's approach and what is fair and reasonable with regards to what expectations one would have for what proof of ownership Mr K might realistically have for each item.
  - With Aviva finally explaining its outcome to Mr K and making settlement to him for the items it has accepted liability for.
- Pay Mr K £150 compensation.

### **My final decision**

I uphold this complaint. I require Aviva Insurance Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 16 September 2024.

Fiona Robinson  
**Ombudsman**