

The complaint

Mr D and Mrs W complain that U K Insurance Limited ("UKI") unfairly settled a theft claim proportionately and excluded certain high value items from cover altogether.

What happened

Following a burglary at their home, Mr D and Mrs W made a claim to their insurer, UKI. The buildings claim was approved and settled, but in relation to the contents claim, UKI proposed a proportionate reduction to the settlement.

It said that any items worth over the single item limit of £2,000 had to be specified on the policy. And that Mr D and Mrs W had only recorded one item worth over the £2,000 limit, which was a gold bracelet. Because some of the items they were claiming for had last been valued several years ago, and were now worth more than the limit, UKI didn't consider that reasonable care had been taken by Mr D and Mrs W when taking out the policy.

As the amount UKI offered was several thousands of pounds less than Mr D and Mrs W claimed, they made a complaint. UKI didn't uphold the complaint, stating that the information about the policy limits was made clear to Mr D and Mrs W both before they purchased the policy and in the welcome pack after cover was taken out.

Mr D and Mrs W didn't agree with UKI's response, so they referred their complaint to this service. Our Investigator considered it, but didn't think it should be upheld. The Investigator said UKI's actions were reasonable when it settled the claim proportionately. Mr D and Mrs W didn't accept our Investigator's view, so the complaint has now 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.

Having done so, I'm not upholding this complaint. I'll explain why.

The relevant law in this case 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.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is – what CIDRA describes as – a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would've offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

UKI thinks Mr D and Mrs W failed to take reasonable care not to make a misrepresentation when they didn't declare the up-to-date value of the rings they were claiming for. Mr D and Mrs W say the last time the rings were valued was around 2008/2009, but UKI says the policy was taken out online in 2023. So it wasn't satisfied that Mr D and Mrs W took reasonable care not to make a misrepresentation when the policy was taken out, as the jewellery hadn't been valued for at least 14 years and no attempt was made to obtain a more accurate valuation closer to the time the policy was purchased.

I've looked at the screenshots UKI has sent which show the quotation and purchase journey that customers go through when taking out the policy online. This shows a clear question was asked during the online sale, which was *"Do you have any valuable items kept in the home only, including pairs or sets, individually worth more than £2,000?"* – Mr D and Mrs W answered *"No"* to this question.

I don't consider that Mr D and Mrs W took reasonable care to answer this question accurately, because the rings which were last valued around 2008/2009 would've likely been worth more than £2,000 at the time the policy was taken out in 2023, and I haven't seen any evidence that Mr D and Mrs W took steps to find out the up-to-date value of the jewellery and provide a more accurate answer to the question. For example, if they'd had the jewellery valued just a few years prior to taking out the policy, they'd have known that answering *"No"* to that question wasn't correct. Because Mr D and Mrs W didn't take reasonable care, I'm satisfied they made a misrepresentation.

I've considered whether that misrepresentation was a qualifying one, i.e. whether it made a difference to the type of cover UKI provided. And I think it was a qualifying misrepresentation. I say this because UKI has provided evidence in the form of its underwriting criteria, to demonstrate that had the true value of the jewellery been declared, it would've included additional endorsements to the policy, for example the *"Worn&Safe"* endorsement, which would've required any high value jewellery to have either been worn, handled, or locked in a safe or bank security box at the time of the theft. UKI has also provided evidence that it would've increased Mr D and Mrs W's premiums if they'd declared the jewellery's true value.

UKI has said the misrepresentation was careless, rather than deliberate or reckless. And I agree with this assessment, because I've not seen anything which would persuade me that Mr D and Mrs W deliberately answered the question incorrectly. So I've considered what this means for the remedies available to UKI under CIDRA.

Under CIDRA, the actions UKI could take when it became aware of the careless qualifying misrepresentation during the course of the claim, included proportionately reducing the settlement amount to be paid under the claim if it would've increased the policy premiums, and providing cover on the terms it would've offered had the misrepresentation not occurred. This means it was entitled to charge a higher premium for the policy, and change the terms of the policy to include the endorsements it would've applied if it had been given the correct information about the value of the items. In light of this, I can see UKI has excluded two of the rings because the Worn&Safe condition wasn't met, as the rings weren't being worn, handled or in a safe or bank security box at the time of the theft. In relation to the remainder of the contents claim, UKI has offered a proportionate settlement, because the amount paid under the policy was 79% of the premium Mr D and Mrs W would've had to pay if the misrepresentation hadn't occurred.

It follows therefore, that I don't consider UKI has acted unreasonably, by offering to cover 79% of the contents claim, rather than the full amount claimed. I know this must be disappointing for Mr D and Mrs W, and I can certainly appreciate that this isn't welcome

news following the burglary itself which was an incredibly traumatic incident. But as UKI has acted in line with CIDRA in this situation, I won't be requiring it to do anything differently.

I've considered what Mr D and Mrs W have said about submitting quotes to UKI which were approved at the time, and whilst I agree this isn't good customer service, I can see UKI has apologised for some of the errors it made along the way. I won't be directing UKI to pay the additional £42 for carpet cleaning and £119.70 for jewellery valuations, as I consider that even if UKI hadn't approved those quotes at the time, Mr D and Mrs W would've likely still incurred these costs. I also consider it fair for the carpets to be dealt with under the contents claim, as it isn't unusual for carpets to be treated as contents by insurers, rather than as part of the building.

Mr D and Mrs W have said that it isn't fair for UKI to exclude two of the rings from the claim and also reduce the payout for the remaining items – and that they should only do one or the other. But that is what the legislation entitles UKI to do in this situation. So I'm very sorry to disappoint Mr D and Mrs W, but for the reasons I've explained, I'm not upholding this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs W to accept or reject my decision before 22 December 2024.

Ifrah Malik
Ombudsman