

The complaint

Mr I and Mrs I complain about Tesco Underwriting Limited ("TUL") and the decision to void their insurance policy, refunding the premium they paid, after they made a claim following a burglary at their home.

Mr I has acted as the main representative during the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mr I or Mrs I as "Mr I" throughout the decision where appropriate.

What happened

The claim and complaint circumstances are well known to both parties. So, I don't intend to list them chronologically in order. But to summarise, in early 2023, Mr I and Mrs I's home was broken into, with several items being stolen, including jewellery and cash. So, Mr I contacted TUL to make a claim on their home insurance policy.

TUL instructed a loss adjustor to handle the claim on their behalf. This loss adjustor was acted as an agent of TUL and so, TUL are responsible for any actions they take. So, I will refer to "TUL" when referring to actions this adjustor took. TUL instructed a valuation expert, who I'll refer to as "J", to value the jewellery that had been stolen. And having received J's report, TUL felt Mr I had mis-represented the information provided to them regarding the replacement as new value of the valuables in his home. So, they voided Mr I's policy back to the date of the most recent renewal, refunding him the premiums he'd paid for this policy. Mr I was unhappy about this, so he raised a complaint.

Mr I didn't think TUL's decision was a fair one, as he didn't think it had been made reasonably clear to him that he needed to provide a more up to date valuation. And he explained why he only expected to be covered up to the £20,000 limit the policy contained. So, Mr I wanted TUL to reinstate his policy and pay him up to this limit.

TUL responded to the complaint and didn't uphold it, explaining why they felt they had acted fairly based on the valuation report provided by J and the misrepresentation they feel Mr I made. So, they didn't think they needed to do anything more. Mr I remained unhappy with this response, so he referred his complaint to us.

Initially, our investigator upheld the complaint, and they didn't feel TUL had shown Mr I's valuables were worth over £30,000 when the policy inceptioned. But TUL responded providing information that our investigator felt evidenced this. So, they changed their view, setting out why they felt TUL had acted fairly and in line with The Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). So, they didn't think TUL needed to do anything more.

Mr I didn't agree, providing several comments setting out why. These included, and are not limited to, Mr I's question about how J was able to accurately value the jewellery he hadn't obtained a valuation for in 2018, considering they had been stolen and so, only images were available. He maintained his stance these items weren't valued as they were worth under £100 each in 2018 and so, he didn't agree that these were worth the amount J had stated. And because of this, he maintained his valuables were worth under £30,000 and so, TUL

should look to proportionately settle his claim, as our investigator had initially suggested.

Our investigator considered Mr I's comments, but their view remained unchanged. Mr I continued to disagree and so, the complaint has been passed to me for a 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'm not upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mr I and Mrs I. I recognise it would've been an extremely worrying and upsetting time for them when they discovered they had been burgled, with items of a significant value, including cash, being stolen. And I appreciate Mr I and Mrs I took out the policy, underwritten by TUL, to assist them both practically and financially in a situation such as the one they found themselves in. So, when TUL made them aware their policy would be voided, without receiving a settlement to cover the losses they incurred, I can understand why they would feel unfairly treated and choose to complain.

But for me to say TUL should do something differently, for example reinstate the policy and settle the claim either proportionately or in full, I first need to be satisfied they have done something wrong. In this situation, TUL have deemed Mr I and Mrs I to have carelessly misrepresented the information provided to them when they purchased the policy. So, I've considered this determination and the actions TUL have taken against the rules set out in CIDRA, to decide if I think a mistake has been made.

Under the rules of CIDRA, I first need to consider whether a misrepresentation has taken place. In this situation, I note Mr I and Mrs I accept they had a portion of their jewellery valued in 2018, worth just over £27,000. And I note they both accept that the schedule of the policy they purchased with TUL listed the *"maximum for all items of valuables in the home"* to be £20,000. So, I think it's accepted that Mr I and Mrs I did mis-represent the information they provided to TUL.

But in addition to the above, I must also be satisfied this misrepresentation was a qualifying one. So, I need to be satisfied Mr I and Mrs I were asked for the relevant information clearly and fairly. And I've taken all of the comments they've put forward on board when deciding this, even if I don't comment on them specifically alongside the fact the policy was purchased online, on a non-advised basis.

I can see that when they took on the policy, they answered *"no"* to the statement *"The replacement value as new of all valuables exceeds the maximum value shown on the schedule"*. And I think it's made reasonably clear within this schedule, and all the policy documentation, that Mr I and Mrs I had a responsibility to ensure this information was accurate, and correct.

The Statement of Fact, where this answer is listed, explains clearly at the top of the document that *"If you have not answered any questions honestly, withheld information or not selected the correct level of cover to replace 'as new' your contents and valuables, personal possessions, specified items and bicycles, we may refuse to pay your claim, pay only part of your claim and/or void your policy"*.

By including this, I think TUL made it reasonably clear the importance of Mr I and Mrs I ensuring the valuation they included for their valuables in particular was correct. And what would happen if Mr I and Mrs I didn't do this. So, I'm satisfied Mr I and Mrs I were asked for the relevant information clearly and fairly and because of this, I'm satisfied the misrepresentation was a qualifying one.

I've then thought about what TUL would've done, had Mr I and Mrs I provided the correct information. And I've seen evidence of TUL's underwriting criteria, which confirms that they do not provide cover where there are valuables worth more than £30,000 in the home. And I appreciate this is where Mr I and Mrs I's main dispute arises.

Mr I and Mrs I doesn't think the jewellery that was stolen was valued at more than £30,000. And so, while they accept it was worth more than £20,000 as specified in the policy, they feel TUL should settle the claim proportionately as they would still have been able to purchase a policy with TUL, albeit for a higher premium.

But I don't think I can fairly say that's the case here. I can see TUL instructed J to value the jewellery that was stolen that Mr I and Mrs I were claiming for. And in this situation, J are the independent expert and so, TUL are fair to rely on the opinion J provide.

I've considered J's report at length. And this report, and their overall valuation, values the stolen items more than £30,000 in 2018, taking into consideration the rise in value due to the material of the items. I recognise Mr I disputes this valuation, explaining why he felt the items not valued in 2018 were less than £100 in value. And he's also queried how J were able to value items, including their weight, without being able to weigh them and only having photographs available.

But J are the expert in this situation. And I've seen comments from J explaining how they are able to do this, considering their expertise and knowledge. And considering the items were stolen, I do think J would've needed to value the items as best they can, as being able to weigh them in person was no longer an option. So again, I don't think I can say TUL were unfair to rely on the opinion J provided, and I want to reassure Mr I this is standard industry approach and I think it's most likely another insurer would've done the same in the same situation.

So, considering J's opinion that the items were worth more than £30,000 in 2018, I think it's reasonable for me to assume that with the natural increase in value, these items were worth more than £30,000 when the policy was incepted. So, because of this, I'm satisfied that had Mr I and Mrs I not misrepresented and provided an accurate valuation of their valuables, TUL wouldn't have offered a policy altogether.

So, I've then thought about the actions TUL can taken where a qualifying misrepresentation has been made that materially impacts their decision to offer the policy. And this differs slightly based on whether an insurer feels a customer has acted carelessly, or recklessly and deliberately.

In this situation, from their actions, I can see TUL have deemed the misrepresentation to be careless, rather than reckless or deliberate. So, in this situation, TUL are entitled to void the policy to the point of the most recent renewal and refuse any claims.

And this is what they have done here. Because of this, I don't think I can say they've acted erroneously, or unfairly, when doing so. And in this situation, TUL would also be expected to refund any premiums paid by Mr I and Mrs I for the voided policy. I can see TUL have done this here and so again, I think they've acted fairly.

So, based on all of the above, I don't think TUL have done anything wrong, or acted unfairly, when taking the actions they have on this occasion. Because of this, I don't think they need to do anything more.

I understand this isn't the outcome Mrs I and Mrs I were hoping for. And I don't intend this decision to in any way detract from their lived experience and the clear and obvious distress this situation would have caused them.

But as I've already explained, for me to say TUL should do something differently, I first need to be satisfied they have done something wrong. And in this situation, I can't say that's the case.

My final decision

For the reasons outlined above, I don't uphold Mr I and Mrs I's complaint about Tesco Underwriting Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I and Mrs I to accept or reject my decision before 26 November 2024.

Josh Haskey
Ombudsman