

The complaint

Mr M complains about how Aviva Insurance Limited handled and settled a claim he made under an insurance policy following the loss of his watch.

What happened

On 14 March 2023, Mr M contacted Aviva over the telephone to discuss an online quotation for an insurance policy to cover his watch. During the telephone discussion with Aviva, Mr M was asked to confirm how much he'd paid for the watch he wanted to insure. He confirmed that he'd paid £14,000 for the item. Mr M paid for the policy in full and Aviva emailed the policy documents to him on the same date.

Shortly after incepting the policy, Mr M contacted Aviva by telephone to discuss the valuation of his watch. He explained that he'd previously had his watch valued by a jeweller who'd informed him that the watch had appreciated in value as it was vintage and had been discontinued. Mr M said the jeweller had advised that the cost of replacing the watch would be over £26,000. He asked Aviva to confirm whether the policy offered a replacement on a new for old basis.

Mr M asked Aviva if he could amend his policy to ensure it reflected the jeweller's valuation. But Aviva said this wasn't possible as the value was based on the purchase price Mr M had confirmed to it. It also explained that it wouldn't insure a single item for more than £20,000. And it stated it wouldn't replace on a new for old basis.

Aviva said it told Mr M that the policy he'd purchased may not be appropriate to his needs. It said it explained that he could exercise his right to cancel the policy within the first 14 days, which he was still within, without penalty. And it suggested he compare the market to find a more suitable policy.

Mr M didn't cancel his policy with Aviva or make any changes to it. There was no further contact with Aviva until 20 November 2023 when Mr M emailed to notify of a claim. He explained that his watch had been stolen the previous day while he was leaving a music concert as a result of a distraction theft. He'd reported this theft to the police shortly after noticing that his watch had been removed from his wrist.

On being notified of the claim, Aviva appointed a company to investigate the circumstances of the loss and validate the claim. I'll refer to this company as "D" within this decision. D interviewed Mr M about the theft and he provided documentation requested to prove ownership and the value of the watch.

Mr M's claim was initially declined due to a misunderstanding of the policy by D. However, this decision was reversed, and Aviva acknowledged this error by paying Mr M compensation. This is not the subject of this complaint as this has been dealt with, and resolved, by Aviva previously.

Aviva decided to cash settle Mr M's claim; it sent him a cheque for £14,000. But Mr M wasn't happy with that. He said the settlement wasn't sufficient as it didn't reflect the true value of the watch. So, he complained. He also asserted that Aviva mis-sold the policy to him.

Aviva investigated Mr M's concerns and issued its final response letter dated 19 June 2024 in which it explained that it hadn't upheld his complaint and the reasons why. It didn't think it had made an error as it had provided Mr M with policy documentation to show how a claim would be settled and the insured value of the watch. And it said Mr M had been informed about the limitations of the policy during his second telephone call with Aviva. It thought the cash settlement was fair as it was the sum Mr M had insured his watch for.

Being dissatisfied with Aviva's response to his complaint Mr M referred it to our service. Our investigator looked into what happened and empathised with Mr M. But they didn't recommend upholding this complaint. They were persuaded that the policy terms had been provided to Mr M after the policy was purchased. They also thought Aviva had made Mr M aware that his watch would only be insured up to £14,000 in the event of loss. And they were satisfied that, in paying out that sum to Mr M, Aviva had acted reasonably and fairly.

Aviva agreed with our investigator's view of this complaint. But Mr M rejected it and asked for his complaint to be referred to an ombudsman.

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.

Where the information I've got is incomplete, unclear or contradictory (as some of it is here) I must base my decision on the balance of probabilities. I'd like to thank Mr M and Aviva for the level of detail contained within their submissions. I've read and considered all the information provided. But if I haven't specifically referred to a point that Mr M or Aviva have made it isn't because I've failed to take it on board and think about it. It's because my decision will focus on what I think are the key issues, which is an approach that reflects the informal nature of this service.

I'm sorry to hear about the difficulties Mr M has shared with our investigator. I've no doubt the theft of his watch was very distressing for him and that he suffered upset and inconvenience as a result of what happened. However, the crux of this complaint is whether Aviva made a mistake, or treated Mr M unfairly, such that it needs to now put things right. I'll explain why I'm not persuaded it has.

There's no dispute that Mr M's watch was stolen and that this item was insured by him with Aviva to ensure that it was covered in the event of loss, theft or accidental damage while inside or outside his home. D investigated the circumstances of this theft on behalf of Aviva and concluded that the theft had occurred as Mr M had described. However, while there's consensus on the circumstances of this theft, there's a dispute between Mr M and Aviva about whether this claim has been fairly settled and the circumstances surrounding the sale of the policy.

The first part of Mr M's complaint is that he was mis-sold a policy of insurance by Aviva. So, I'll focus on that issue first.

As I explained in the background to this complaint, Mr M took out his policy with Aviva over the telephone on 14 March 2023 after contacting it to discuss an online quotation to insure his watch. Mr M made two calls to Aviva to discuss his policy in March 2023 and Aviva has

helpfully shared the relevant call recordings with our service to aid our assessment of this complaint.

I've carefully listened to the call recording that relates to the policy being purchased and set up. I'm satisfied Mr M was clear that he wanted to insure his watch. He was asked to confirm how much he'd paid for his watch and responded that he'd paid £14,000 for it. So, the policy was set up to insure the watch at that value.

The first call recording is over 14 minutes in duration. Based on the recording I've listened to, I'm satisfied Aviva informed Mr M that his watch would be insured for £14,000. Important policy terms and conditions were drawn to Mr M's attention; I say this because there was a loss endorsement within the policy and this was comprehensively drawn to Mr M's attention and explained. Aviva recommended that Mr M review the policy documents it said it would send him and reminded him that he had a 14 day cooling off period within which he could cancel his policy if it proved unsuitable.

Shortly after taking out the policy with Aviva, Mr M called back to query whether his watch was insured on a new for old basis. Aviva informed him that it doesn't insure on this basis as the value goes off the purchase value or a valuation undertaken by an approved jeweller rather than the cost of a brand new equivalent item. During this call, Mr M explained that his watch had been valued for over £26,000. But Aviva informed Mr M that his watch is only covered for up to £14,00 and that it doesn't insure a single item for over £20,000.

I'm satisfied from the second call recording that Aviva told Mr M it wouldn't be able to pay out over £14,000 if the watch was the subject of the claim for the above reasons. Aviva also informed Mr M that the policy might not be suitable to his requirements. And Aviva explained that Mr M had a 14 day cooling off period during which he could cancel his policy without penalty. It suggested Mr M may wish to compare the market to find an insurer that could meet his needs better.

In this call, Mr M asked Aviva if it was able to maximise the sum insured for the watch to £20,000 – the policy limit for a single item. But it explained this wasn't possible as it can't under insure the valuation price. Mr M told Aviva *"this leaves me in a precarious position"* to which it reiterated its suggestion that he consider other insurance providers, which may be more suitable.

During the calls provided, I'm satisfied Mr M was informed on a number of occasions that his watch would only be insured up to a value of £14,000 in the event of a claim. He was told he wouldn't receive more than £14,000 if his watch was the subject of a claim and that he'd have to cover any shortfall he may incur replacing the watch in the event that a more expensive watch was sourced.

I'm satisfied from the call recordings I've listened to that the limitations of Mr M's policy were made very clear to him. I note he tells Aviva towards the end of the second call recording *"like you said, I think shopping around might be best"*. I'm persuaded this demonstrates that he was aware the policy might not have been suitable for his purposes.

Having listened to both calls that Mr M made to Aviva, I'm satisfied the policy sale was conducted on a non-advised basis. I say this because Aviva didn't recommend the policy or provide Mr M with any advice as to the suitability of the cover he was intending to purchase prior to the point of sale.

When Mr M requested advice on what he should do given the shortfall between the valuation from his jeweller and the sum insured by Aviva, the call operator responded by stating *"really that's up to you"*. I'm persuaded this made it clear to Mr M that he'd have to

decide whether the policy was suitable to his requirements and that Aviva wouldn't offer advice about this.

As the sale was non-advised Aviva didn't need to make sure that the policy it sold was suitable for Mr M's needs. I'm satisfied, however, based on the telephone discussions that Mr M had with Aviva that it highlighted to him the policy limitations and that he may wish to consider cancelling the policy in the event it wasn't suitable.

Mr M contends that Aviva ought to have followed up with him to emphasise the risks of remaining underinsured. But I wouldn't expect it to do so in circumstances where it had explained clearly that it would only pay up to £14,000 in the event of a claim. As I've mentioned, Aviva was clear during discussions with Mr M that he should consider whether to take out insurance elsewhere if he wanted to cover his watch for a higher value.

Aviva had a responsibility to provide information that was clear, fair and not misleading so Mr M could make an informed decision on whether the policy was suitable. The responsibility for ensuring he had the cover he required rested on Mr M.

After the policy was inceptioned, Aviva emailed policy documents to Mr M. I've seen a copy of this email and I'm satisfied the policy terms and conditions and a clear indication of cover for the watch were provided to Mr M.

It's reasonable to expect a policyholder to read the policy documentation an insurer has sent. The documentation is important because it enables a policyholder to make an informed decision about whether the policy they've purchased provides adequate cover. And this is why insurers offer a cooling off period – during which a policyholder can cancel their policy they've taken out without a financial penalty.

Having carefully considered the policy documents, I'm satisfied that they are transparent and unambiguously worded. It's clear from these documents that Mr M's watch is insured up to the value of £14,000 with an excess of £250.

The schedule sets out clearly the level of cover and warns a policyholder that this is the maximum amount Aviva will pay. The schedule refers the policyholder to the policy terms and conditions, which Aviva says should be read in conjunction with the schedule.

The policy terms contain clear and coherent information about how Aviva would settle a claim. I say this because the policy terms state *"we agree to pay for repair of replacement or issue a voucher up to the limit stated in your insurance schedule"*. The terms also go on to outline:

"the basis of valuation for settlement will be the value agreed by us and shown in the schedule. We will not be liable for more than the agreed value".

I'm sorry to disappoint Mr M, but, in the overall circumstances, having taken into account the content of the call recordings and the information contained within policy documentation, I can't agree that Aviva mis-sold this insurance policy. And, in providing clear information about Mr M's policy and the sum the watch was insured for, I'm satisfied Aviva has acted in line with its responsibilities under the Consumer Duty here. It follows that I'm not upholding this part of Mr M's complaint.

I'll turn now to the second part of Mr M's complaint, which is about the way in which his claim for theft of the watch was settled.

Following referral to D by Aviva, it investigated the circumstances of the claim. Ultimately, Aviva approved the claim as valid, which was the correct outcome based on what had happened to the watch.

I've already set out the policy terms that apply in the event of a claim being made. They refer to the claim being limited to the value within the insurance schedule – here £14,000. And, as I've explained, Mr M was aware of that limitation.

Here, Aviva has cash settled for the maximum value Mr M insured his watch for. This is within the policy limit. I'm satisfied Aviva has settled this claim in line with the policy terms. As Mr M took out insurance for his watch to be insured for up to £14,000 I can't fairly direct Aviva to increase the cash settlement it paid here.

I can see Aviva initially considered providing a voucher in this sum to Mr M so he could select another watch from one of its preferred jewellers. But he said he'd prefer a cash settlement as he felt uncomfortable wearing an expensive watch given what had happened. Aviva was responsive to that concern in resolving this claim by way of a cash settlement.

Aviva has confirmed it didn't deduct the policy excess from the cash settlement paid to Mr M. I'm persuaded the excess ought to have been paid by Mr M here. So, I wouldn't have directed Aviva not to charge this. In not deducting the excess from Mr M's cash settlement I'm satisfied he was paid more than the policy entitled him to.

I realise Mr M will be disappointed with this decision, but for the reasons outlined Aviva has acted fairly and reasonably in how it settled this claim. I'm satisfied the policy wasn't mis-sold. And I'm not persuaded Aviva needs to take any further action to resolve his complaint. I'm therefore not upholding this complaint. This now brings to an end what we, in trying to resolve Mr M's dispute with Aviva, can do for him. I'm sorry we can't help any further with this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 January 2025.

Julie Mitchell
Ombudsman