

The complaint

Mr F and Mrs F complain about West Bay Insurance Plc (“WBI”) and the way their home insurance claim was handled, and settled, following a burglary at their home.

Mrs F 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 F or Mrs F as “Mrs F” throughout the decision where appropriate.

What happened

The claim and complaint circumstances are well known to both parties and they have been laid out in detail by our investigator in their view, which both parties have been sent. So, I don’t intend to list them chronologically in detail.

But to summarise, Mr F and Mrs F held a home insurance policy underwritten by WBI when their home was burgled, with their home being damaged and several items within their home stolen. So, they contacted WBI to make a claim.

WBI arranged for the damage to Mrs F’s home to be repaired. And they made a cash settlement offer for the stolen items they were satisfied Mrs F was able to provide proof of ownership for. But this settlement was reduced by 15%, to account for WBI’s belief that Mr F and Mrs F were underinsured. Mrs F was unhappy with this, and the service WBI provided, so she raised a number of complaints throughout the claim process.

In summary, Mrs F complained about the length of time the claim had taken, the lack of communication provided without and WBI’s cash settlement offer, which contained a deduction to account for WBI’s belief Mrs F was underinsured and so, had misrepresented on the policy.

WBI responded to Mrs F’s complaints and upheld them in part. They accepted there had been delays and a lack of communication throughout the claim and offered a total of £1,000 compensation to recognise the impact this caused. But they thought their initial settlement offer was a fair one, that covered the value of the stolen items Mrs F was able to provide ownership for. And, that it fairly took into consideration their belief that Mrs F has misrepresented the information provided on the policy, leading to her being underinsured. So, they didn’t offer to do anything more for that aspect of the complaint. Mrs F remained unhappy with this response, so she referred her complaint to us.

While the complaint was with our service, WBI agreed to settle more items, accepting evidence Mrs F provided had been overlooked. Based on the numbered loss list Mrs F provided, WBI agreed to pay for items 66, 138 and 120 through to 137, relating to the pandora bracelet, which hadn’t already been included in their original settlement.

Our investigator looked into Mrs F’s complaint and upheld it. They explained why they thought the £1,000 already offered by WBI fairly compensated Mrs F and Mr F for the delays

and failures in communication. And they explained why they thought WBI were now agreeing to pay for all the items where ownership had been reasonably evidenced.

But they also set out why they didn't agree that Mrs F had misrepresented at the inception of the policy, as WBI had been unable to provide evidence of the questions Mrs F was asked, and the answers she provided. So, in line with our services approach, our investigator assumed Mrs F had taken reasonable care at the time. Because of this, our investigator didn't think WBI were fair to apply the 15% deduction on the settlement. So, they directed WBI to settle the claim including the newly agreed items without a deduction being applied. And they directed WBI to apply 8% simple interest to this amount, from 30 days after Mrs F's loss list was received to the date of payment.

WBI responded to the view explaining why they didn't accept all its recommendations. They explained why they thought adding interest from 30 days after receipt of the loss list was unfair, suggesting it be from 60 days instead due to the claim complexity. And they maintained the 15% deduction was fair, providing evidence to support this position.

WBI also pointed out that Mrs F rejected the original claim settlement in August 2024. So, they sought clarity on our investigator's recommendation. Our investigator responded explaining why their view remained unchanged, and explaining any interest should be calculated from 30 days after the loss list was received, which WBI noted in response. As WBI didn't agree, and Mrs F didn't respond, 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 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 Mrs F and Mr F. I appreciate being the victims of such a significant burglary would have been severely upsetting and worrying for them. And I recognise they likely took out the policy with WBI to assist them both practically and financially in a situation such as the one they found themselves in. So, when WBI's claim handling created further distress and inconvenience and the settlement offer was less than they had hoped or expected, I can understand why they would feel unfairly treated and choose to complain.

So, I've considered the above at length, within our services usual approach. I want to be clear that while I have considered all the information available to me, my decision will focus on the points I feel are pertinent to the decision I've reached, in line with the informal nature of our service. So, I may not speak to every issue Mrs F has raised in detail.

I note that WBI accepted in their complaint responses that there had been delays and a lack of communication throughout the claim. So, I'm satisfied these complaint issues no longer remain in dispute. Because of this, I won't be discussing the merits of these any further. Instead, I will return to them when discussing what I'm directing WBI to do to put things right.

The same can be said for the settlement of items 66, 138 and 120 through to 137, which I note WBI accept weren't included in their original settlement when they should have been. As WBI have now agreed to issue payment for these, I won't be discussing this in any further

detail, as it's not in dispute that WBI's initial offer was unreasonable as it didn't include everything it should have, for a variety of reasons.

Instead, my decision will focus on the merits of the issues that do remain in dispute. And these centre around the payment of the remaining items WBI haven't agreed to. And WBI's decision to apply a 15% deduction on the overall settlement, to account for Mrs F being underinsured. I've separated these below, for ease of reading.

Settlement of remaining items not included

As set out above, I won't be commenting on the items WBI have agreed to pay, which includes all non-jewellery items and the jewellery that was included in WBI's original offer, and the items WBI have agreed to pay out for since.

But I do want to make it clear that, in line with the terms and conditions of the policy Mrs F held, where a cash settlement is offered this would be based on the amount it would cost WBI to replace the items through their own supplier, as long as replacement was offered as an option.

In this situation, I can see that it was. So, I'm unable to say WBI were unfair to base their initial settlement, before deduction and the inclusion of further items, on what it would cost them to replace the items through their own supplier, as this is in line with standard industry approach. And they are entitled to do the same for the items they have agreed to settle since the complaint has been with our service.

And when validating a claim of this nature, where items have been stolen, insurers such as WBI are entitled to take steps to validate the claim. This will include asking for proof of ownership. So, where Mrs F and Mr F have been unable to provide any evidence to show this, I'm unable to say WBI were unfair when not including these as part of the settlement.

Further to this, I note Mrs F has provided evidence for some items that hasn't been accepted by WBI. This includes a handwritten evaluation for some of the items from 1984, and photos where certain items weren't evidence as being worn.

While I appreciate the handwritten evaluation shows Mrs F's parents were in possession of the items at that time, I'm unable to say WBI were unfair when deciding this wasn't proof of ownership at the time of the theft. This is because the evaluation wasn't in the name of Mrs F and Mr F, who were bringing the claim. And it has been almost 40 years since the evaluation and so, I can't say it's unreasonable for WBI to be uncertain of what happened to these items during this time. And where photos were provided that didn't show the items being worn, it follows that no proof of ownership of these items was provided.

So, because of the above, I'm unable to say WBI acted unfairly when not agreeing to pay out on these items and I won't be directing them to do so.

Underinsurance misrepresentation and subsequent deduction

When considering misrepresentation and underinsurance, our service considers the actions an insurer has taken against the rules set out within the Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). So, this is what I've done.

First, I must consider whether there was a misrepresentation by Mr F and Mrs F. In this situation, I note their policy held a sum insured for their contents of £75,000. And it's not in dispute that when the loss adjustor valued their contents including those stolen, this came to around £210,000. So, I'm satisfied there was a misrepresentation and that Mr F and Mrs F were underinsured on their policy.

But crucially, this doesn't mean WBI were then entitled to place a deduction on the settlement amount. CIDRA makes it clear that for an insurer such as WBI to be able to take such action, the misrepresentation must be a qualifying one and that the insurer must be able to evidence that the customer, in this case Mr F and Mrs F, failed to take reasonable care when providing the relevant information to WBI.

In this situation, WBI have provided me with evidence that satisfies me they wouldn't have provided cover to Mr F and Mrs F, had they been aware the total value of their contents was worth more than £80,000.

But before this is a factor, I must first be satisfied Mr F and Mrs F failed to take reasonable care when declaring the value of their contents at the time the policy inceptioned. And to be satisfied of this, I would need to have evidence to show Mr F and Mrs F failed to provide an incorrect answer to questions that were clear and not misleading.

In this situation, despite repeated requests, WBI have failed to provide the questions Mr F and Mrs F were asked at the inception of the policy. So, in line with our services approach, in situations such as this I must place benefit of the doubt with Mr F and Mrs F and assume they took reasonable care to provide a reasonable answer at that time. So, I'm unable to agree that a qualifying misrepresentation took place.

And further to this, when reviewing the policy documentation at each renewal where I note no questions were asked each time, I'm not satisfied this documentation is clear enough to ensure Mr F and Mrs F had a reasonable understanding of what information may need amending. Or, that the policy no longer suited their needs.

This is because there was no definition for what sum insured meant, or guidance on how a customer could and should calculate this. So, while I do accept there was a term in the policy that states WBI could reduce a claim payment to reflect wear and tear where a sum insured is too low, I'm not satisfied WBI were fair to rely on this on this occasion.

I recognise WBI are unlikely to agree with this. And I want to reassure them I've thought carefully about the comments they provided following our investigators view, which they felt shows Mrs F was aware of her sum insured. But this hasn't impacted my decision here as it remains that WBI have been unable to show the questions Mrs F and Mr F were asked at the time the policy inceptioned and it is their responsibility to provide this information, if they are relying on the terms of CIDRA.

And whether or not Mrs F stated she was aware of her sum insured, this doesn't change my opinion that the terms of the policy failed to provide the level of detail and explanation our service would expect regarding this. So, I'm satisfied WBI acted unfairly when making a deduction on the settlement amount and I've then turned to what they should do to reasonably put things right.

Putting things right

When deciding what WBI should do to put things right, any award or direction I make is intended to place Mrs F and Mr F back in the position they would have been in, had WBI acted fairly in the first place.

In this situation, had WBI acted fairly, they would have provided a cash settlement offer that included the additional items now agreed sooner, without a 15% deduction. Our service's approach states that we would expect an offer such as this to be made within 30 days of a business such as WBI receiving a completed loss list from a customer.

But it's clear this didn't happen here, with the loss list being received some time in November 2023 yet no offer being made until July 2024, with this offer being reduced unfairly without all the required items being included.

So, to recognise this and the length of time Mr F and Mrs F have been without access to these funds unfairly, I'm directing WBI to pay a new settlement that includes all the items included in their initial settlement plus items 66, 122, 123, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 138 as agreed with our service.

This settlement should be made with no deduction for wear and tear applied, with it instead being calculated up to the policy limits. And 8% simple interest should be applied to this amount from 30 days after WBI received the loss list to the date payment is made.

I want to be clear that while I considered WBI's proposal about increasing this to 60 days, I'm satisfied the complexity of the claim was created by WBI failing to make it reasonably clear to Mr F and Mrs F what evidence they required, unreasonable demands regarding receipts with names included and investigating their concerns about Mr F and Mrs F's car which had no relevant relation to the contents claim. So, I see no reason to deviate from our service's usual approach.

And while I do note WBI made an offer of settlement to Mrs F in July 2024, which she chose to reject when she could have accepted this as an interim payment, crucially this settlement offer was for less than it should have been, for all the reasons already set out above.

So, I can't say Mrs F and Mr F were presented with a reasonable settlement offer or given the opportunity to consider accepting one at that time. So, the 8% simple interest should be calculated on the entire amount from 30 days after the loss list was received, as I've set out above.

Finally, I note WBI offered a total of £1,000 compensation to recognise the impact caused to Mrs F and Mr F by the claim delays and lack of communication. Having considered this offer, I'm satisfied it's a fair one that falls in line with our services approach and what I would have directed, had it not already been made. I'm satisfied it is significant enough to reflect the worry caused by the delays that have already been accepted, and how the poor communication created an inconvenience to Mrs F and Mr F that could have been avoided.

But I think it also fairly reflects that in claims of this nature, there will always be an element of distress and inconvenience, which WBI were unable to prevent or control. So, I won't be asking them to make a further compensatory payment. I note these payments were made by cheque, but I don't know for certain if they were cashed and so, if they haven't been, I would expect WBI to issue new cheques for the same amount.

My final decision

For the reasons outlined above, I uphold Mr F and Mrs F's complaint about West Bay Insurance Plc and I direct them to take the following action:

- Pay Mr F and Mrs F a cash settlement amount that includes all the items included in their original offer, plus items 66, 122, 123, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 138, without any deduction being applied;

- Pay 8% simple interest on this amount calculated from 30 days after they received Mr F and Mrs F's loss list to the date of payment; and
- Pay any additional amount required to ensure Mr F and Mrs F have received a total of £1,000 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Mrs F to accept or reject my decision before 24 June 2025.

Josh Haskey
Ombudsman