

complaint

Miss C complains that London and Country Mortgages Ltd lost identity documents including her passport. To resolve her complaint she wants it to reimburse the fee she had to pay for the replacement of the passport and the money she'd paid for a holiday which she couldn't take, and compensate her for her loss.

background

London and Country needed proof of identity documents for Miss C's mortgage application. She sent them, including her passport, on 3 March 2017. London and Country received them the next day and sent them back by recorded delivery on 6 March. Royal Mail's records show it attempted delivery on 7 March. Miss C wasn't in to sign for the package, so it was returned to the delivery office that day. But she says Royal Mail didn't leave a card, so she didn't know the package was there and didn't collect it. On 27 March Royal Mail sent it back to London and Country but it didn't arrive and was presumed lost in transit.

Miss C made her complaint to this service on 19 April and London and Country made its submission in response on 8 May. On 22 June our investigator recommended that London and Country pay Miss C £50, the Royal Mail limit for a lost item, and seek reimbursement from Royal Mail. She also recommended it pay £50 compensation for the upset caused.

In reply London and Country emailed the investigator on 26 June to say that the package had been located by Royal Mail. It said the package had been returned to it on 20 April and it had sent it to Miss C on 24 April. I assume Miss C doesn't dispute this, because she didn't challenge it when the investigator sent her a copy of London and Country's email on 21 July.

In the light of this development our investigator made a revised recommendation on 17 July. She said Royal Mail had confirmed that either the sender or the recipient could make a claim for the delay, which would be for a multiple of the original postage cost. However the investigator didn't consider Miss C would have any success in retrieving compensation for delay through Royal Mail herself. But London and Country could have done so, and this hadn't been considered. The investigator thought a payment of £50 would be fair.

London and Country didn't agree. It said this would indicate that it had done something wrong. It had a responsibility to return clients' information by a suitable means which was Royal Mail first class post. It had fulfilled this requirement and could do no more. Once the documents were received by Royal Mail the responsibility for their care was Royal Mail's not London and Country's. It couldn't accept responsibility in the event that either the client didn't collect the item, or Royal Mail lost it.

London and Country said Royal Mail attempted delivery to Miss C and therefore the responsibility was then Miss C's to collect the documents from Royal Mail. They weren't collected and were returned via the normal system which again was nothing to do with London and Country. Although the investigator said it should have sought compensation from Royal Mail, the responsibility was Miss C's to collect the item before it was returned as unclaimed. If her argument was that Royal Mail didn't leave a card then that was a matter between Miss C and Royal Mail. To suggest that London and Country was responsible for this and should compensate Miss C was saying it had acted incorrectly which it firmly believed was not the case.

London and Country said it would like the matter reviewed by an ombudsman. I took a different view of the complaint to the investigator. So I decided to issue a provisional decision, setting out my view of the case and inviting further comments. Both parties have now responded and so I issue my final decision.

my provisional decision

In my provisional decision, I said:

“It’s not clear why London and Country didn’t mention, in its submission to this service on 8 May, that the package had been recovered and sent to Miss C on 24 April. I think it may be confusing two separate incidents. The first incident was the failed delivery on 7 March, and Royal Mail’s failure to leave a card so that Miss C didn’t know the package was at the delivery office awaiting collection. The second incident was that it took from 27 March until 20 April for Royal Mail to transport the package from the delivery office back to London and Country.

It was the second incident which caused the loss, because the date of the holiday flight was 12 April. The second incident had nothing to do with London and Country’s responsibility to return clients’ information by a suitable means, or Royal Mail’s failure to leave a card, or Miss C’s failure to collect the package.

The investigator wasn’t suggesting that London and Country had failed in its responsibility to return clients’ information, or that it was responsible for either of these failures. Her point was that a claim could be made on Royal Mail on account of the second incident. Miss C couldn’t make that claim because she was neither the sender nor the recipient of the package. It was sent by Royal Mail to London and Country. The basis for the investigator’s suggested award was that London and Country should have made the claim on Royal Mail.

I don’t think any sum payable by Royal Mail would necessarily be £50 because that’s for loss, not delay. And the issue is about delay in transit from Royal Mail to London and Country, not to Miss C. Delay compensation for a personal customer is limited as the investigator said. It may be only six first class stamps.

But London and Country is a business customer. Royal Mail’s retail compensation policy says there may be substantial delay compensation if an item has not been delivered or an attempt made to deliver seven or more working days after the due date. The policy does not give figures for “substantial” delay compensation and I expect this would depend on what loss the business could prove.

But there’s a difficulty here. Miss C couldn’t make a claim because she was neither sender nor recipient. And her claim would have been worth very little anyway. London and Country could have made a claim, but it’s unlikely to have received any significant compensation because it hadn’t suffered any loss from the delay.

I have considerable sympathy for Miss C, but in reality her problem is that London and Country wasn’t responsible for the delay, and Royal Mail doesn’t pay for consequential losses. Assuming Royal Mail was responsible (and I put it that way because Royal Mail says it did leave a card) then a claim by London and Country was unlikely to have produced compensation for Miss C’s consequential losses, nor was it likely to have produced even £50. And I don’t think there’s any proper basis for me to order London and Country to pay

more compensation than could have been recovered from Royal Mail, which I think would likely have been little or nothing.”

the responses to my provisional decision

London and Country said it had nothing further to add. Miss C didn't respond to my provisional decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party has challenged my provisional conclusions, I confirm them here.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 16 October 2017.

Edward Callaghan
ombudsman