DRN-4451938

The complaint

C, a company, complains about the sale of their facility insurance policy by Aviva Insurance Limited and the settlement paid under a claim.

Any reference to Aviva includes the actions of its agents.

C is represented by Mr and Mrs C.

What happened

In January 2020, Mr C took out a facility insurance policy for C. The policy provided cover for employers liability, public and products liability, and professional indemnity. It also provided up to £5,500 worth of cover for machinery, fixtures and contents, £2,000 for Information Technology (IT), and £10,000 for glass.

In 2023, C's premises were broken into, and items were stolen and damaged. Mr and Mrs C made a claim, which Aviva accepted. It noted that Mr and Mrs C couldn't provide proof of purchase for a number of the items that were stolen, but paid a settlement of £5,794.69 for a piano, some clothing and some mirrors (after deducting the £250 excess).

Mr and Mrs C were disappointed with the claim settlement as they thought the policy limit for contents wasn't high enough. They also thought the policy would cover loss of earnings. They therefore thought the policy had been mis-sold. They brought a complaint to the Financial Ombudsman Service after Aviva didn't uphold their complaint.

Our investigator recommended the complaint be partly upheld. She didn't think the policy had been mis-sold, and concluded the policy limits had been made clear. However, she thought Aviva ought to pay a further settlement under the policy for the IT equipment, without requiring proof of purchase.

Aviva agreed to our investigator's recommendations, but Mr and Mrs C did not. The matter has therefore 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.

Sale of policy

Mr and Mrs C say they didn't realise the insurance intermediary that sold the policy acted on Aviva's behalf.

Unfortunately, the sales call where Mr C took out the policy is no longer available. However, I've read the terms of business provided to Mr C after he took out the policy, and at each renewal. I'm satisfied this made it clear that the intermediary acted on the behalf of the

insurer when arranging the insurance. For ease, I'll refer to the intermediary as Aviva for the remainder of this decision.

The policy was sold on a non-advised basis, which meant Aviva didn't need to make sure the policy was suitable. However, it did need to provide Mr C with enough information about the cover for him to make an informed decision over whether to take it out.

I've read the information sent to Mr C after he agreed to take out the cover, and this confirmed the policy limits. Although Mr and Mrs C say they thought the £5,500 figure was per item, I haven't seen any evidence to suggest they were led to believe this.

I've also listened to a phone call that took place in April 2022. Mrs C called Aviva to make a change to the policy. During that call she asked the adviser if she could insure some equipment. The adviser said the policy covered £5,500 for the contents. Mrs C asked if that insured all the contents, and the adviser confirmed this was up to £5,500. I'm satisfied, based on this conversation, that Mrs C understood the policy limit for contents, and was happy with this. She gave no indication that the contents at the premises were worth more than this.

Mr and Mrs C also say they understood the buildings would be covered. Though as C doesn't own the building, the responsibility for insuring this lay with C's landlord. The policy does give the option of theft cover extension, which covers the cost of repairing damage to the buildings as a result of theft if the policyholder is responsible for the repairs. However, this wasn't taken out.

Mr and Mrs C also say they thought the policy covered loss of earnings. Again, I can't establish what was discussed when the policy was taken out. But I'm satisfied the policy schedule doesn't include cover for this.

I therefore don't find that this policy was mis-sold.

Settlement of claim

Aviva has paid the settlement for items where Mr and Mrs C were able to provide proof of purchase/ownership. However, as our investigator has explained, we don't necessarily expect a policyholder to be able to evidence proof of purchase for every item, particularly when many items fall under the claim. It might be reasonable to request this for a very high value item for example, or if an insurer had concerns about a claim. The circumstances are slightly unusual here in that a lot of the items being claimed for were donated, given the nature of C's business.

The value of damaged/stolen contents far exceeds the £5,500 worth of cover. I note the clothing alone was estimated to be around £5,000. I also note that Mr and Mrs C have been able to provide receipts for around £3,000 for the clothing. Taking everything into account, I think it's reasonable for Aviva to pay the maximum £5,500 for the contents. Whilst I see the contents cover has a £250 excess, this should be deducted from the total value of the contents claim, rather than the limit. As I'm only requiring Aviva to pay the £5,5000 limit, the excess shouldn't be deducted from this.

The policy also includes £10,000 worth of cover for glass, with a separate excess of £250. The claim included £2,586 for damaged mirrors. The policy definition of glass includes mirrors, and Mr and Mrs C have been able to evidence proof of purchase for these. So I think Aviva should pay £2,586 under this section of cover, less the £250 excess (which is deducted from the total value of the glass claim).

I therefore find that Aviva should pay a total settlement under contents and glass of £7,836 (£5,500 + £2,586, minus £250 glass excess). Aviva can deduct the claim payment already made to Mr and Mrs C from this.

Mr and Mrs C also claimed for various items of IT equipment. The policy includes £2,000 cover for this, with an excess of £100. The phone call between the parties of April 2022 made reference to this cover, and the adviser said it would cover "*computers and CDs and stuff like that*".

Aviva has made the point that the landlord made a statement which confirmed he had loaned C some IT equipment but didn't consider that C owned it. Aviva says that as C didn't own it, they had no insurable interest over those items. I think that was reasonable for Aviva to say. I note that Aviva has provided photos of those particular items. So I think Aviva can disregard these in its claims settlement.

So I require Aviva to pay a claims settlement for any other IT items that were damaged/stolen, up to the policy limit of £2,000. Whilst I recognise that C doesn't have proof of purchase for those items, the majority of items being claimed for are older items and therefore I wouldn't expect C to have receipts for these. It can deduct the £100 excess from the settlement if the amount claimed is less than £2,000.

When I told Aviva what I intended to do, it made the point that C was grossly underinsured, yet it has not required C to bear a proportionate share of the loss as it could have done under the policy. That of course was Aviva's decision. However, I've only considered whether it's reasonable for Aviva to pay the settlement even though C hasn't provided proof of purchase for all the items.

My final decision

My final decision is that I partly uphold this complaint. I require Aviva Insurance Limited to do the following:

- Pay a total settlement under contents and glass of £7,836. Aviva can deduct the claim payment already made to Mr and Mrs C from this. Interest should be added from the date the previous claim payment was paid to the date of settlement.*
- Pay a claims settlement for the IT items that were stolen/damaged (which didn't belong to the landlord) up to the policy limit of £2,000, less the excess if necessary. Interest should be added from the date the previous claim payment was paid to the date of settlement.*

* If Aviva considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr and Mrs C how much it's taken off. It should also give Mr and Mrs C a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C on behalf of C to accept or reject my decision before 8 March 2024.

Chantelle Hurn-Ryan
Ombudsman