

The complaint

Mrs and Mr W are unhappy with the cash settlement Fairmead Insurance Limited (FIL) paid when they claimed under their policy for a lost ring. Mrs and Mr W jointly held contents insurance underwritten by FIL. As she made the complaint, and for ease of reading, I'll refer only to Mrs W throughout my decision.

What happened

The background to this complaint is well-known to both parties. So I've set out a summary of what I think are the key events.

Mrs W lost her ring while on holiday. The ring held significant sentimental value, so she employed the services of local experts to help look for it. After several days of looking, without success, Mrs W made a claim under her policy.

FIL accepted the claim. Mrs W had specified the ring's value as £45,000 (figures rounded for ease) under the valuables section of the policy, and kept up to date with valuations to meet the policy requirements. On receipt of evidence of the ring, FIL said that for a little under £40,000 its appointed jeweller would be able to make a like for like replacement.

Mrs W was reluctant to have a replacement made in the same design because she'd had trouble with the structure of it before. She told FIL that she wanted to have a different design. FIL agreed to cash settle so that she could arrange for a new, sturdier design. FIL confirmed it would settle at its own cost of just under £40,000 and Mrs W accepted the offer.

On receipt of payment, Mrs W contacted FIL to ask it to correct a mistake it had made with the settlement value paid to her account. FIL agreed it had made a mistake and arranged a second payment. However, after looking at the policy again, Mrs W asked FIL why it hadn't settled her claim for the full insured value of her ring. FIL responded to say that its liability under the policy was limited to what it would've cost its appointed jeweller to make a replacement.

Unhappy with its response, Mrs W complained to FIL. She didn't think her policy limited FIL's liability for anything other than the full specified value, so she wanted it to settle her claim for the full amount.

FIL issued a final response to the complaint. It told Mrs W that page 17 of the policy stated:

The Cover for contents and valuables In the event of loss or damage covered by this insurance, we will decide whether to repair, replace or pay a cash settlement on the basis of replacement cost as new.

Mrs W complained again because she thought FIL had applied conditions of the policy incorrectly to explain its reasons for limiting the cash settlement. She said the section FIL quoted was for household contents rather than valuables.

FIL responded to Mrs W, providing further quotes from the policy to explain why the limit of

liability for a cash settlement did apply.

Section Two - Household Contents, Fine Art and Antiques and Valuables

The Cover

Cover for household contents, fine art and antiques and valuables applies only if they are shown as included in your policy schedule.

This section covers the household contents, fine art and antiques, and valuables belonging to you or for which you are legally liable, against loss or damage, other than as excluded under either this section or the general exclusions.

These items are insured whilst at the insured premises or anywhere in the world.

Basis of Valuation/Settlement of loss and/or damage

1. In respect of household contents

In the event of loss or damage covered by this insurance, we will decide whether to repair, replace or pay a cash settlement on the basis of replacement cost as new.

Mrs W remained unhappy for the same reason she'd already told FIL, so she brought her complaint to us.

One of our investigators looked into Mrs W's complaint but she didn't think it was one we could uphold. She explained that FIL had offered a replacement in line with the policy, and it had done more than it needed to by offering a cash settlement up to the value of the replacement. Our investigator didn't think FIL needed to do any more.

Mrs W didn't agree, and she said the policy wording didn't support FIL's reasons for making a cash settlement payment less than the insured value of her ring.

I issued a provisional decision in June 2024 explaining that I was intending to uphold Mrs W's complaint. Here's what I said:

provisional findings

I won't repeat the details of the complaint here. Instead I'll explain why I don't currently think FIL has treated Mrs W fairly by declining to cash settle for the full insured value of the ring.

The loss, claim, and insured value of Mrs W's ring is not disputed. The complaint is only about the cash settlement amount.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably.

The policy sets out the detail of the contract between FIL and Mrs W, and FIL relied on the following policy wording to limit its liability to its own cost to replace:

The Cover for contents and valuables In the event of loss or damage covered by this insurance, we will decide whether to repair, replace or pay a cash settlement on the basis of replacement cost as new.

However, what FIL didn't make clear was that the heading for this section on page 17 of the

policy was "1. In respect of household contents". The next point in the same section stated:

2. In respect of fine art and antiques and valuables

In the event of loss or damage covered by this insurance we will pay:

b. For specified items:

Up to the value agreed by us and as stated in the schedule for each item...individually listed in the valuation...

Based on this policy wording, I can't reasonably say that FIL communicated an intention to settle a claim for valuables by replacement, or by limiting its liability to its own equivalent cost of replacement. In light of that, I can't say FIL fairly refused to settle for the full insured value for the reasons it gave.

I've looked at the rest of the policy documents to see whether other conditions apply which allow FIL to limit a cash settlement.

Page 9 of the policy booklet says,

...we may:

arrange for the repair or a replacement as quickly as possible

If we appoint an authorised repairer the benefits for you are:

- we will arrange for someone to repair or replace the lost or damaged items

The policy is silent on a cash settlement for valuables.

The schedule shows the contents insured amount under a heading of:

All Household Contents and Personal Belongings (excluding... Valuables...)

This lends weight to the treatment of valuables separately to household contents, as indicated on page 17 of the policy booklet. In turn, this persuades me that specified valuables are not covered by the same limitation as household contents. It doesn't say anywhere in the policy that if Mrs W chose cash rather than a repair or replacement that it would be at the supplier's cost. It does say that for other contents though, so it's reasonable to conclude that it doesn't apply to valuables.

FIL said it's industry practice to cash settle at its own cost if it can replace on a like for like basis, and I agree. Mrs W said the ring was bespoke so it won't ever be the same. But FIL can only ever replace a lost ring with a ring of the same appearance and quality. The sentimental part can't be replaced.

However, I simply haven't seen anywhere in the section for specified valuables, or in the general terms and conditions, that FIL may cash settle at its own supplier's cost to replace. And as the valuables section states, "we will pay", I think a reasonable person could expect that to mean a cash payment.

So, on the whole, while I think FIL made a fair offer to replace the ring on a like for like basis, I can't agree that the policy made it clear to Mrs W that she would not be entitled to the full insured value of her ring. Therefore, I can't reasonably say FIL made a fair offer in line with the policy wording in these circumstances.

I've noted that FIL omitted relevant parts of the policy wording when it explained its cash settlement. In doing so, I think its explanation was somewhat unclear. When Mrs W challenged this, FIL agreed that the wording was different, and went as far as saying the policy wording wasn't clear. But, when looking at FIL's subsequent reason for refusing to increase the cash settlement offer to the full value, I can't agree that it was a fair reflection of the policy wording for specified valuables.

For these reasons, my provisional decision is that I uphold Mrs W's complaint and I'm minded to require FIL to settle the claim for the full insured value.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Responses

Mrs W accepted my provisional decision.

FIL didn't agree. It said the limit of liability was its cost to replace on a like for like basis, and any betterment would not be covered under the policy. As FIL was able to make a replacement ring of the same design, its view was that the cost of making the ring was the most it should pay to settle the claim. So, because Mrs W said she wanted a different design, FIL considered that betterment and any additional cost would not payable. To support its view, FIL provided details of its underwriting guidance on settling claims of this nature.

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.

In light of FIL's response, I looked at the evidence again. And, having done so, I've decided to uphold Mrs W's complaint for the same reasons I set out in my provisional decision. However, I'll explain why my decision doesn't reflect FIL's stated philosophy of not paying more than the amount for which it could replace the ring.

To begin with, I want to reiterate that I accept FIL *did* follow industry practice when it offered to cash settle at its own cost to replace on a like for like basis. But I must consider each complaint on its own merits, and I don't think FIL's offer was, or feels, fair in the circumstances. As I said in my provisional decision, *"I simply haven't seen anywhere in the section for specified valuables, or in the general terms and conditions, that FIL may cash settle at its own supplier's cost to replace. And as the valuables section states, "we will pay", I think a reasonable person could expect that to mean a cash payment"*.

The policy is the contract between Mrs W and FIL. Where it lacks clarity – which I think it does in respect of any cash settlement for valuables – I consider it fair to settle in Mrs W's favour. Had the policy wording made it clear that if a replacement could be offered, any cash settlement would not exceed FIL's cost to replace, then I'd likely have reached a different decision. But the fact remains that the policy does not provide Mrs W with that clarity - something FIL itself acknowledged in its correspondence with her.

In summary, while FIL made an offer in line with industry practice, I don't find it a fair offer in the circumstances because the policy wording did not make it clear to Mrs W that a reduced cash settlement would be paid.

My final decision

For the reasons I've explained above, and in my provisional decision, my final decision is that I uphold Mrs and Mr W's complaint and Fairmead Insurance Limited must:

- pay an additional cash settlement to bring the total claim settlement to the full insured value of the ring as specified in the policy schedule.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 27 July 2024.

Debra Vaughan
Ombudsman